PUBLIC REVIEW DRAFT

Initial Study

Baywood Mixed-Use Project Public Review Draft Initial Study

File Number: SP20-008

March 2021

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APPENDICES

ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
BAAQMD	Bay Area Air Quality Management District
BEES	Building Energy Efficiency Standards
CalEEMod	California Emissions Estimator Model
CAP	Clean Air Plan
CARB	California Air Resources Board
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CMP	Congestion Management Plan
DMA	Drainage Management Area
EIR	Environmental Impact Report
EMFAC	Emissions Factor Model
EPA	United States Environmental Protection Agency
GHG	Greenhouse Gas
LOS	Level of Service
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
TACs	Toxic Air Contaminants
USFWS	United States Fish and Wildlife Service
VTA	Santa Clara Valley Transportation Authority

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José (City), as the Lead Agency, has prepared this Initial Study for the proposed Baywood Mixed-Use Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes to construct an 11-story mixed-use building with 79 residential condominium units and 9,820 square feet of commercial space.

1.2 PUBLIC REVIEW PERIOD

Publication of this Initial Study marks the beginning of a 20-day public review and comment period. During this period, the Initial Study will be available to local, state, and federal agencies and to interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 20-day public review period should be sent to:

Bethelhem Telahun, Planner I Environmental Review
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Third Floor
San José, California 95113
(408) 535-5624
Bethelhem.Telahun @sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City will consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project at a regularly scheduled meeting. The City shall consider the Initial Study/MND together with any comments received during the public review process. Upon adoption of the MND, the City may proceed with project approval actions.

1.4 NOTICE OF DETERMINATION

If the project is approved, the City will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075[g]).

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SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Baywood Mixed-Use Project (File Number: SP20-008)

2.2 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building and Code Enforcement
Planning Division
City Hall, Third Floor
200 East Santa Clara Street
San José, CA 95113

Environmental Review

Bethelhem Telahun, Planner
Phone: 408-535-5624
Email: Bethelhem@sanjoseca.gov

2.3 PROJECT APPLICANT

Henry Cord, Cord Associates
401 Fieldcrest Drive
San José, CA 95123
Phone: 408-283-7292
Email: cord100@aol.com

2.4 PROJECT LOCATION

The project proposes to construct an 11-story mixed-use building with 79 residential condominium units and 9,820 square feet of commercial space. The project site is located in the City of San José (City) approximately 41 miles southeast of San Francisco, 25 miles northeast of Santa Cruz, 56 miles southwest of Modesto, and 30 miles northwest of Gilroy. Surrounding cities include Sunnyvale and Santa Clara to the east, and the city of Campbell to the south. The project site is located approximately 0.3 miles north of Interstate 280 (I-280) and west of Interstate 880 (I-880), and approximately 2.5 miles southwest of Norman Y. Mineta San José International airport. The approximately 0.44-acre project site is located at 375 and 383 S. Baywood Avenue, and 382 S. Redwood Avenue.

Figure 1, Location Map, presents the regional location of the project site. Figure 2, Aerial Photograph, identifies the specific project site location.

2.5 ASSESSOR'S PARCEL NUMBER

The project site consists of three parcels: Assessor Parcel Numbers 277-34-038, 277-34-039, and 277-34-040 (refer to Figure 2).

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation

The project site has an Envision San José 2040 General Plan (General Plan) land use designation of Urban Village. The General Plan establishes the Urban Villages concept to create a policy framework to direct most new job and housing growth to occur within walkable and bike-friendly Urban Villages that have good access to transit and other existing infrastructure and facilities. This designation can accommodate employment and housing growth and reduce environmental impacts of that growth by promoting transit use and walkability. This land use will guide the City toward fulfillment of its future vision (City of San José 2011). The project site is also located within the West Valley Planning Area as identified in the General Plan.

Zoning District

383 and 375 S. Baywood Avenues (APNs 277-34-038 and -039) are within the CP Commercial Pedestrian zoning district, while 382 S. Redwood Avenue (APN 277-34-040) is within the CG Commercial General zoning district. However, as noted within the City's Planning Division letter dated March 23, 2020, "due to recent State regulations, the project would be reviewed under the Commercial Pedestrian zoning district" (Michelle Flores, letter to applicant, March 23, 2020). Therefore, this initial study will discuss the project site as a whole being within the Commercial Pedestrian zoning district.

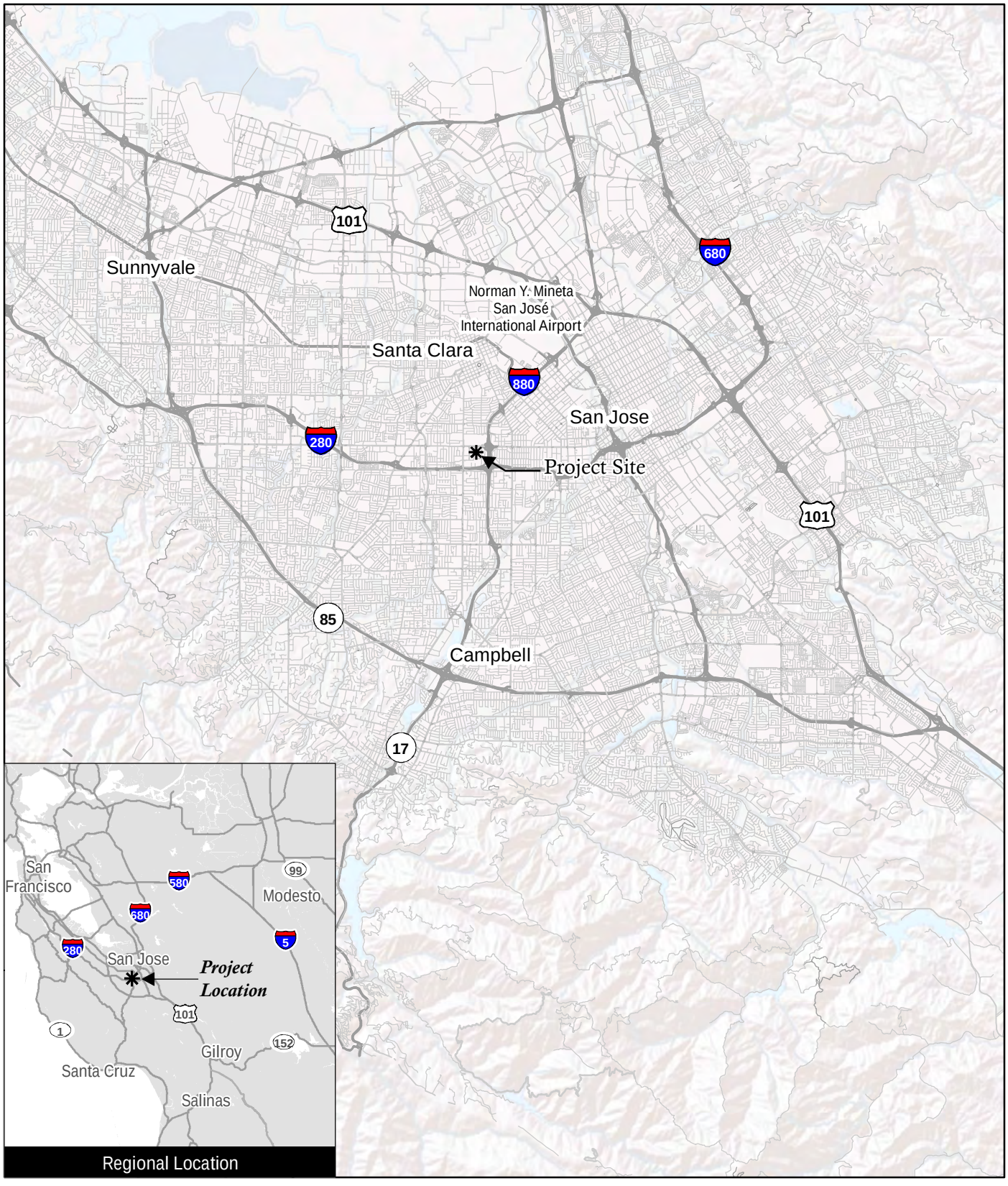
The CP Commercial Pedestrian district is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The CP Commercial Pedestrian District also encourages mixed residential/ commercial development where appropriate, and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies.

This district may be located, in addition to areas of the City that have a commercial land use designation in the General Plan, in areas that have an Urban Village land use designation. In these locations, the uses and development in this district are intended to be in conformance with applicable approved Urban Village Plans (in this case, the applicable approved plan is the *Santana Row/Valley Fair Urban Village Plan* adopted on August 8, 2017). The type of development supported by this district includes Neighborhood Business Districts, neighborhood centers, multi-tenant commercial development along city connector and main streets as designated in the general plan, and small corner commercial establishments. New development should orient buildings towards public streets and transit facilities and include features to provide an enhanced pedestrian environment.

2.7 HABITAT PLAN DESIGNATION

Development Zone: Urban Development Equal to or Greater than Two Acres Covered

Land Cover Type: Urban - Suburban



Source: ESRI 2019

Figure 1

Location Map

Baywood Mixed-Use Project Initial Study

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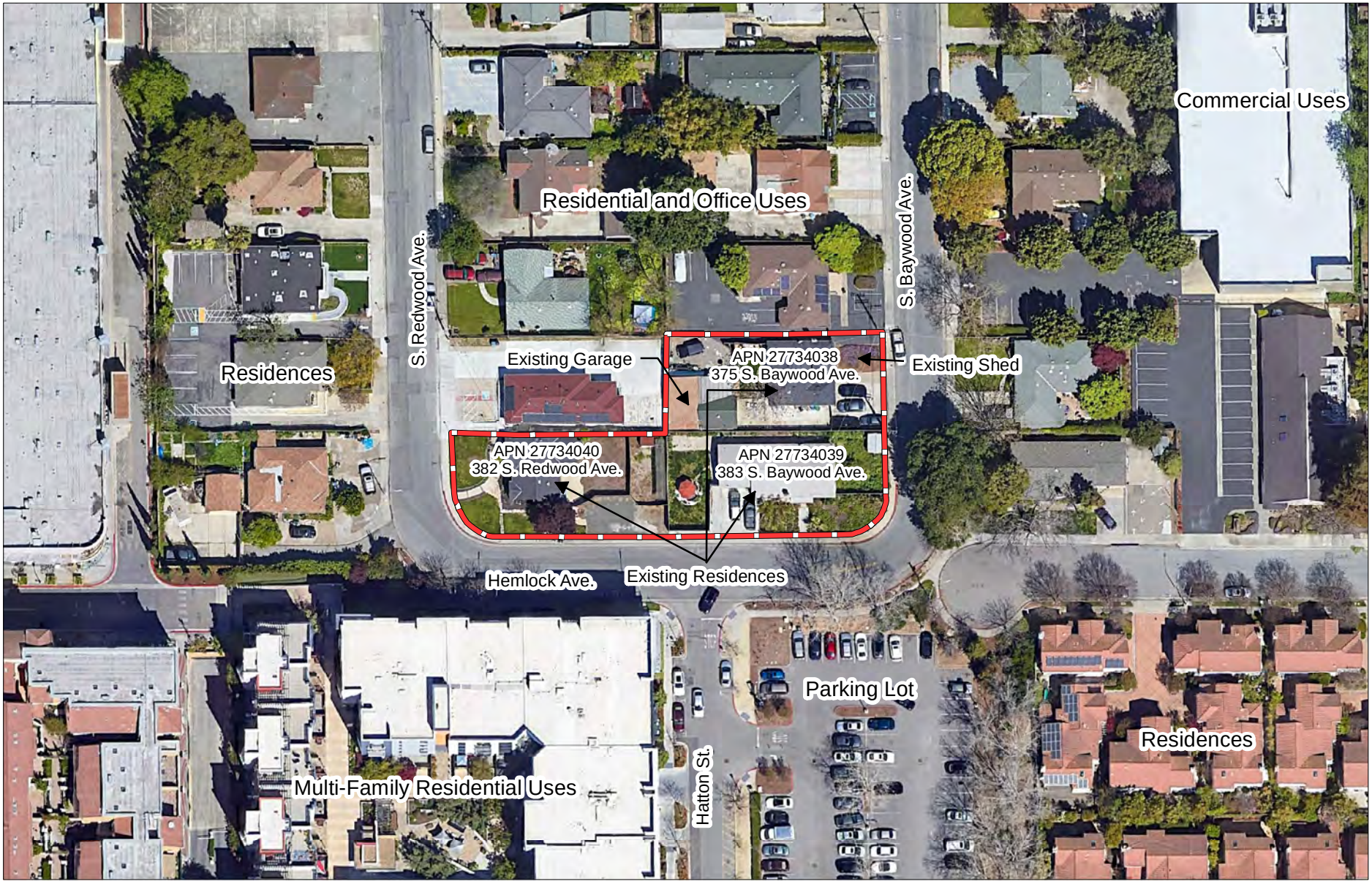

0 100 feet

Project Boundary

Source: Google Earth 2019, Santa Clara County GIS 2017

Figure 2

Aerial Photograph

Baywood Mixed-Use Project Initial Study

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Land Cover Fee Zone: Urban Areas (No Land Cover Fee)

Burrowing Owl Survey and Fee Zone: n/a

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The City of San José is the lead agency with responsibility for approving the project. Discretionary approval from other public agencies is not necessary. The project would require the following discretionary approvals from the City of San José:

- Special Use Permit;
- Public Works Clearance: Grading Permit and Tree Removal Permit; and
- Building Clearance: Demolition, Building, and Occupancy Permits.

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SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT SUMMARY

This initial study provides project-level CEQA analysis for a Special Use Permit to allow the demolition of three single-family residences, a detached garage, and a shed, and the removal of two ordinance size trees. The project proposes to construct an 11-story mixed-use building with 79 residential condominium units and 9,820 square feet of commercial space on a 0.44-acre project site (APNs 277-34-038, -039, and -040) located at 375 and 383 S. Baywood Avenues, and 382 S. Redwood Avenue.

Background

The project site was previously approved for the construction of an 11-story hotel with 105 rooms on the two parcels located at 375 and 383 Baywood Avenue. An initial study and mitigated negative declaration were prepared for the project and approved by the City in December 2018. However, in 2019, the applicant decided to make changes to the original design to include residential and commercial uses for a mixed-use building. In 2020, the applicant acquired the neighboring property, 382 S. Redwood Avenue, and included that parcel into the new project's design.

Project Site Characteristics

The project site is currently developed with three residences (constructed in 1946), one detached garage, and one shed and is accessed by S. Baywood Avenue, Hemlock Avenue, and S. Redwood Avenue. The project site is surrounded by residential and commercial uses to the north, commercial uses to the east, a four-story multi-family development and parking lot to the south, and one-story residences to the west, as shown in Figure 2, presented earlier. Figure 3, Site Photographs, illustrates views of the existing development at the project site.

The project site is designated Urban Village under the General Plan and is within the *Santana Row/Valley Fair Urban Village Plan* (Urban Village Plan), which is consistent with planned growth established in the General Plan. The site is also located in the CP Commercial Pedestrian zoning district. Building height in this zoning district is restricted to a maximum of 120 feet.

The project site characteristics are summarized in Table 1, Site Characteristics, below.

Table 1 Site Characteristics

Project Site Characteristics	
Project Site Gross Acreage	0.44 acres (19,329.50 square feet)
General Plan Designation	Urban Village
Zoning District	Commercial Pedestrian
City Growth Area	Valley Fair/Santana Row (Urban Village)
Allowable Height	120 feet
Number of Existing Structures	3 residences, one detached garage, and one shed
Surrounding Land Uses	Residential and Commercial

SOURCE: Carpira Design Group Company (2020)

3.2 PROPOSED DEVELOPMENT

The project proposes to develop an 11-story building with 79 residential condominium units and 9,820 square feet of commercial space. Figure 4, Conceptual Site Plan, illustrates the conceptual site plan. Figure 5, Proposed Building Rendering, illustrates the view of the proposed building from the corner of Hemlock and S. Baywood Avenues. Figure 6, Bird's Eye Building Rendering, provides another view of the proposed building. The full set of project plans can be found in Appendix A. Table 2, Proposed Project Components, provides a summary of key project components. These components are further described in the following sections.

Table 2 Proposed Project Components

Project Component	Project Details
Impervious Site Coverage (including site and public street)	18,664 square feet
Landscape Coverage (Pervious Coverage)	664 square feet
Number of Residential Condominiums	79 condominiums
Commercial Square Footage[1]	9,820 square feet
Building Height	11 stories (119 feet 8 inches)
Vehicle Parking Spaces	98 spaces
Bicycle/Motorcycle Parking Spaces	37 spaces/26 spaces
Number of Existing Trees to be Removed	7 trees
Number of Proposed Trees to be Planted	60 trees
Front Setback (Hemlock Avenue)	8 feet
East Side Yard Setback (Baywood Avenue)	5 feet 5 inches
West Side Yard Setback (Redwood Avenue)	5 feet 8 inches
Rear Setback	10 feet

SOURCE: Carpira Design Group Company (2020)
NOTE: The commercial square footage may be used as office space.

3.3 SITE ACCESS, CIRCULATION, AND PARKING

A total of 98 vehicle parking spaces would be provided within both the two-level underground parking garage for residents and the one-level aboveground parking garage for the commercial users. An additional 37 spaces are dedicated for bicycles (30 spaces in one of the underground parking levels for residents and 7 spaces in the aboveground parking garage for the commercial users), and another 26 spaces are dedicated for motorcycles (15 spaces in the two-level underground parking garage for the residents and 11 spaces in the above-ground parking garage for the commercial users). There are two access points for the under- and above-ground parking garages; access to the above-ground commercial parking garage is from Hemlock Avenue and access to the two underground residential parking garages is from S. Baywood Avenue. The project proposes to remove four feet of existing pavement around the outer border of the site and include red colored curbs at each parking garage entrance and a 30-foot red curb on S. Redwood Avenue. White curbs, identified as loading zones, are also proposed near each parking garage entrance.

1 S. Baywood Ave. facing west

2 Corner of S. Baywood Ave. and Hemlock Ave. facing west

3 Hemlock Ave. facing north

Project Site

Source: Google Earth 2019
Photographs: EMC Planning Group 2020

4 Hemlock Ave. facing south

5 Hemlock Ave. facing north

6 S. Redwood Ave. facing east

Figure 3
Site Photographs

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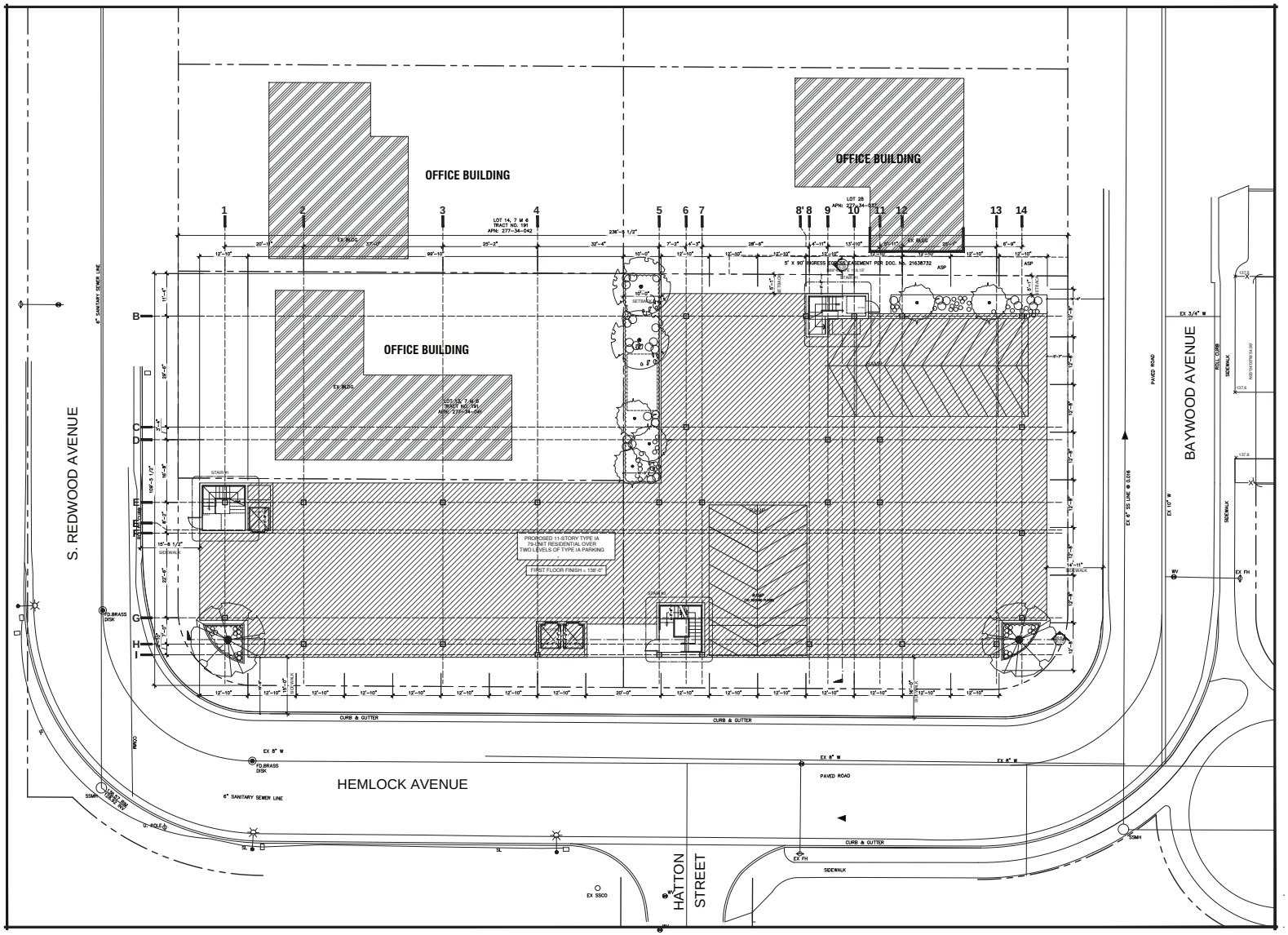

Source: Carpira Design Group 2020

Figure 4

Proposed Site Plan

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Source: Carpira Design Group 2019

Figure 5
Proposed Building Rendering

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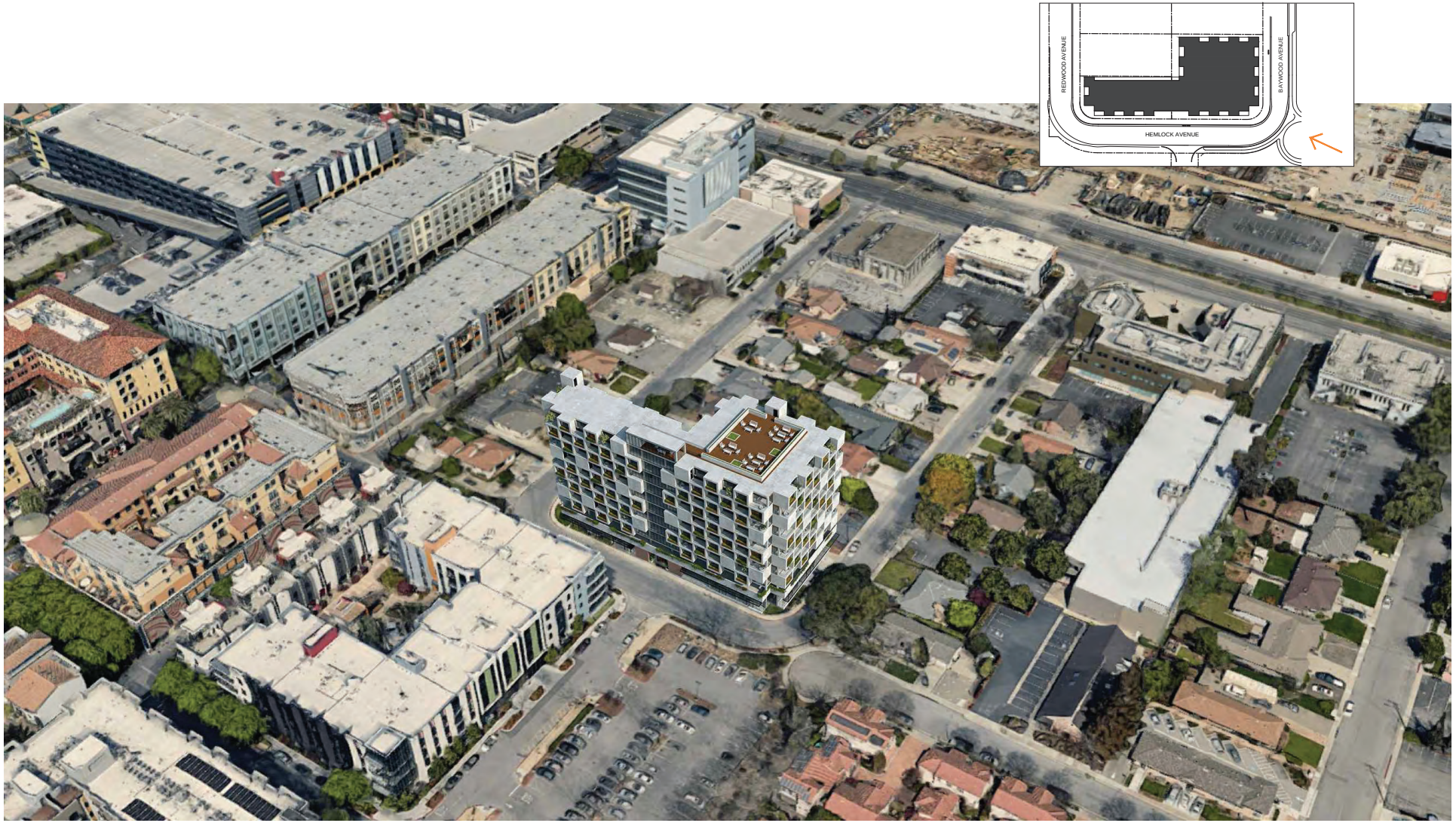

Source: Carpira Design Group 2019

Figure 6
Bird's Eye Building Rendering

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3.4 TREE REMOVAL AND LANDSCAPING

The proposed project plans to remove seven existing onsite trees, two of which are considered ordinance size (i.e. 12 inches or more in diameter). The project proposes to plant 60 new trees, which would be located around the perimeter of the ground floor and roof top. Additional landscaping such as shrubs, grasses, and groundcover are also proposed around the perimeter of the project site. Landscape plans are included in Appendix A.

3.5 UTILITIES

The proposed project would connect into the existing 6-inch sanitary sewer line located in the public right-of-way that wraps around the site. The project proposes two new storm drain manholes located right-of-way at the northeast corner of the site and at the corner of Hemlock Avenue and S. Baywood Avenue. The two new storm drain manholes would connect to the City's existing 12-inch storm drain system. Two new fire hydrants, one near the S. Baywood Avenue driveway and one on S. Redwood Avenue, would connect to the new fire service connections and existing water lines located in the public rights-of way; the proposed project would also connect directly to the existing water lines at the southeast corner of the site. One new 90-feet long easement is proposed at the northeast corner of the site. The proposed project would also connect to the existing power and gas lines.

3.6 DEMOLITION AND CONSTRUCTION ACTIVITIES

Project construction would include typical construction phases such as demolition, site preparation and grading, building construction, paving, and architectural coating.

During project construction, equipment anticipated to be used includes backhoes, dozers, pavers, concrete mixers, trucks, air compressors, saws, and hammers. Trucks providing deliveries and hauling would access the project site from either S. Baywood Avenue, Hemlock Avenue, or S. Redwood Avenue. The entire 0.44-acre site would be disturbed. According to the conceptual grading and utility plan, the proposed project would excavate and export 19,500 cubic yards of soil.

Demolition of the existing building and construction of the proposed development would take approximately 20 months.

Construction and Demolition Diversion Deposit (CDDD)

For the demolition component of this project, the City would charge a refundable deposit based on the square footage of the building. To ensure compliance under the CDDD Program, the City requires at least 50% diversion from the landfill. The deposit is fully refundable if construction and demolition materials are reused, donated, or sent to a City-certified processing facility. A current map of the City-Certified facilities is available at www.sjenvironment.org/cdd. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, receipts from donations centers stating materials and quantities, etc.

Furthermore, given that demolition projects are creating materials that are difficult to recycle by even the most efficient processing construction and demolition facilities, the City recommends that the contractor assigned to the demolition job, source separates all the recoverable materials and limits the amounts ruble often times associated with these types of projects.

The City encourages sustainability initiatives and supports any deconstruction or adaptive reuse efforts within the building community. Deconstruction is a cost-effective and environmentally responsible alternative to conventional building demolition. In a deconstruction process the hazardous materials are removed, reusable appliances, flooring, and other building materials are salvaged, and non-reusable materials are recycled. Old buildings can have some of the best materials. Deconstruction is time consuming and additional planning is needed to accommodate this phase. It takes much longer to deconstruct a building because the building is taken apart carefully to remove materials to be reused later.

State of California CalGreen

The new construction component of this project would fall under the state of California requirements. The CALGreen code requires that the following residential and non-residential projects recycle and/or salvage for reuse a minimum of 65 percent of the non-hazardous construction and demolition debris:

- The construction of a new permitted structure; and
- Tenant Improvement projects (renovations, remodels or additions) to an existing structure that increases the building's conditioned area, volume, or size.

San José mandates 75 percent diversion for projects that qualify under CALGreen, see San José Municipal Code Section 9.10.2480. When multiple standards may apply, the most stringent diversion requirement prevails.

A list of activities recommended for San José's CalGreen compliance are listed on the City website at: www.sjenvironment.org/cdd.

3.7 TRANSPORTATION DEMAND MANAGEMENT PLAN

The proposed project includes a transportation demand management plan (Appendix H of the *Baywood Condominium Mixed-Use Development – Transportation Analysis*, in Appendix G of this initial study), to reduce overall vehicles trips generated by the project. The transportation demand management plan includes the following measures to reduce vehicle trips:

- Online Kiosk;
- Unbundled Parking;
- Transit Subsidies; and
- Bicycle Programs.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

This project would potentially affect the environmental factors checked below, involving at least one impact that is "Potentially Significant" or "Less than Significant with Mitigation Incorporated" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Greenhouse Gas Emissions	☐ Population/Housing
☐ Agriculture and Forestry Resources	☒ Hazards & Hazardous Materials	☐ Public Services
☒ Air Quality	☐ Hydrology/Water Quality	☐ Recreation
☒ Biological Resources	☐ Land Use/Planning	☐ Transportation
☐ Cultural Resources	☐ Wildfire	☐ Tribal Cultural Resources
☐ Energy	☐ Mineral Resources	☒ Utilities/Service Systems
☐ Geology/Soils	☒ Noise	☒ Mandatory Findings of Significance

DETERMINATION

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions to the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (2) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

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SECTION 4.0 ENVIRONMENTAL CHECKLIST

4.1 AESTHETICS

4.1.1 Aesthetics Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	1,9,55
b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	1,4,9, 54,55
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒	1,3,5,9, 29
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐	1,3,4,9

4.1.2 Environmental Setting

The 0.44-acre project site is currently developed with three residences, one detached garage, and one shed. The site is surrounded by residential and commercial uses to the north, commercial uses to the east, a four-story multi-family development and parking lot to the south, and one-story residences to the west. Adjacent to the project site, S. Redwood Avenue, Hemlock Avenue, and S. Baywood Avenue have sidewalks on both sides of the street. There is also landscaping on the privately-owned parcels, as well as along the southern side of Hemlock Avenue in the public right-of-way.

The project site is located within the West Valley Planning Area and, therefore, is located within an area where residential development is the prevailing land use and is suburban in character, with some intense residential development near the major roadway and corridors of Stevens Creek Boulevard, Saratoga Avenue, and Winchester Boulevard. Commercial development is concentrated along major roadway corridors in single-story strip commercial and larger shopping center developments with parking fronting roadways. Visual open space in this Planning Area is primarily provided by school sites and parks within residential areas (City of San José 2011, p. 715). There are no views of any surrounding mountain ranges from the project site (Google Earth 2020). As most of the City is relatively flat, prominent viewpoints (other than buildings) are limited (City of San José 2011, p. 716). The project site is 0.1 mile south of Stevens Creek Boulevard, which is considered a Gateway Scenic Corridor; however, there are no highways that are eligible for designation as scenic highways or have been officially designated within the City (City of San José 2011, p. 717).

4.1.3 Regulatory Setting

State

California Scenic Highway Program

Many state highways are located in areas of outstanding natural beauty. California's Scenic Highway Program was created by the Legislature in 1963. Its purpose is to protect and enhance the natural scenic beauty of California highways and adjacent corridors, through special conservation treatment. The state laws governing the Scenic Highway Program are found in the Streets and Highways Code, Sections 260 through 263. The nearest state highway listed on the California State Scenic Highway System Map is I-280 (considered an eligible state scenic highway), located approximately 0.3 miles south of the project site (Caltrans 2020).

Local

Envision San José 2040 General Plan

The General Plan includes Community Design Goals, Policies, and Implementation Actions that guide the form of future development in San José and help tie individual projects to the vision for the surrounding area and the city as a whole. The following policies are specific to aesthetic resources and apply to the proposed project (City of San José 2011):

> **Policy CD-1.1** Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
>
> **Policy CD-1.7** Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
>
> **Policy CD-1.8** Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
>
> **Policy CD-1.9** Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street facing property line with entrances directly to the public sidewalk, provide high quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.

Policy CD-1.11 To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Policy CD-1.12 Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.13 Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

Policy CD-1.16 Strongly discourage gates and fences at the frontage of commercial properties to maintain an open and inviting commercial character and avoid the inhospitable appearance of security barriers.

Policy CD-1.17 Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy CD-1.23 Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

In addition to applicable General Plan policies, the project would be required to comply with the following City policies and guidelines, as applicable:

- San José Outdoor Lighting Policy (City Council Policy 4-3, as revised 6/20/2000), which promotes energy-efficient outdoor lighting on private development in the City that provides adequate light for nighttime activities while benefitting the continued enjoyment of the night sky by reducing light pollution and sky glow.

- San José Residential Design Guidelines, which addresses how new residential development should relate to its surroundings. The objective of the City design review process is to ensure that the relationships of units to each other and to other onsite uses are both functional and attractive.

- San José Commercial Design Guidelines, which addresses issues of neighborhood compatibility, project function and aesthetics. These guidelines seek to assure that new commercial development preserves or improves the positive character of the existing neighborhood and that negative impacts on nearby residences be avoided.

Santana Row/Valley Fair Urban Village Plan

The *Santana Row/Valley Fair Urban Village Plan* (Urban Village Plan) is prepared by the City and community to provide a policy framework to guide new job and housing growth within the Urban Village boundary. The Urban Village Plan will also guide the characteristics of future development, including buildings, parks, plazas and placemaking, streetscape and circulation within this area.

Design standards and policies that are provided in the Urban Village Plan that are applicable to the proposed project include:

> **Policy 3-9** Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use Plan. Because the Land Use Plan identifies the City's long-term planned land use for a property, nonconforming uses should transition to the planned use over the time. Allow improvements or minor expansion of existing, non-conforming land uses provided that such development will contribute to San José's and this Plan's employment growth goals or advance a significant number of other goals of this Plan.
>
> **Standard DS-1** Ground floor building frontages shall have clear, untinted glass or other glazing material on at least 60% of the surface area of the facade between a height of two and seven feet above grade.
>
> **Standards DS-3** The minimum floor-to-ceiling height of the ground floor commercial space shall be a minimum of 15 feet and preferably 18 to 20 feet.
>
> **Standard DS-5** Primary building entries, either individual or shared, shall be prominent and easy to identify; shall face a public street, pedestrian path, or paseo; and shall incorporate a projection (porch, stoop, bay window, etc.), recess, or combination of porch or recess.
>
> **Standards DS-9** New projects proposed within the Urban Village Plan over 55 feet in height must provide detailed visualizations of their proposed project that show what the project would look like from the street level, from different perspectives and distances, within the context of the neighborhood including both current and proposed projects.

Scenic Vistas and Resources

The City's General Plan defines scenic vistas and resources in the City as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic vistas of the natural and man-made environment can be viewed from roadways and freeways and public trails throughout the City. Most of these views are intermittent, interrupted by street trees, tall buildings (especially those built close the roadways) and utility infrastructure. Development and redevelopment allowed under the proposed General Plan, especially along segments of major roadways that are either elevated, or are immediately adjacent to hillside areas could affect views of natural scenic vistas of hillside areas; although this is not the case for the proposed project. Key roadways with views of hillside

areas include: SR 237, Tasman Drive, Montague Expressway, Stevens Creek Boulevard, Santa Clara/Alum Rock, Story Road, I-280, Capitol Expressway, SR 87, SR 85, and portions of US 101 (City of San José 2011, p. 722).

Scenic Corridors

Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project site is located 0.13 miles south of Stevens Creek Boulevard, which is identified on the City's *Scenic Corridors Diagram* as a scenic gateway (City of San José 2016).

4.1.4 Impact Discussion

a) Have a substantial adverse effect on a scenic vista?

(**No Impact**)

The project site is in a highly urbanized and developed area with many trees and high-rise buildings. The City's General Plan defines scenic vistas and resources as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. The project site is not located within a designated viewshed or scenic view corridor identified by the General Plan or the City's *Scenic Corridors Diagram* (City of San José 2016). The nearest scenic corridor is Stevens Creek Boulevard located approximately 0.13 miles north of the project site.

With high-rise buildings located within the vicinity of the project site to the south and west, and the street trees blocking views to the north and east, no scenic vistas or resources are visible on the project site or in the surrounding area that could be potentially impacted as a result of the proposed project (Google Earth 2020).

b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?

(**No Impact**)

The California State Department of Transportation's State Scenic Highway System Map indicates I-280 as an eligible state scenic highway (Caltrans 2020). However, I-280 is approximately 0.3 miles south of the project site and development of the proposed project would not be seen from I-280 due to existing high-rise buildings adjacent to I-280 to the north. A sound barrier and landscaping between I-280 and the project site would completely obstruct views of the proposed development from I-280 and, therefore, development of the project site would not damage scenic resources or buildings within this eligible state scenic highway.

In addition, the project site is within 0.13 miles south of Stevens Creek Boulevard, which is designated as a gateway pursuant to the City's *Scenic Corridors Diagram* (City of San José 2016). Due to the height of the proposed building, travelers on Stevens Creek Boulevard could have glimpses of the proposed building. However, the proposed project would blend in with the existing urban development and, therefore, would not damage the views from Stevens Creek Boulevard.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

(**No Impact**)

The proposed project is planned for by the General Plan by way of its designation as Urban Village. As part of the Urban Village designation, the project site is identified within the *Santana Row/Valley Fair Urban Village Plan* (Urban Village Plan) adopted by the City Council in August 2017 and considered a major strategy of the General Plan. The Urban Village Plan identifies the project site as an Urban Village land use, which supports a wide range of commercial uses and institutional uses as stand-alone uses or in a mixed-use format. This designation also allows residential uses in a mixed-use format. Residential and commercial mixed-use projects can be vertical mixed-use with residential above retail for example, or, where a larger site allows, they can be mixed horizontally, with commercial and residential uses built adjacent to each other, in one integrated development (City of San José 2017, p. 20). Due to its location within this plan, the project site is subject to compliance with the Urban Village Plan development standards and design guidelines.

The proposed project complies with Urban Village Plan Policy 3-9, which states that proposals for redevelopment or significant intensification of existing land uses on a property, such as the proposed project, conform to the Land Use Plan. The proposed project also complies with Standard DS-1, which states that the ground floor building frontages shall have clear, un-tinted glass or other glazing material on at least 60% of the surface area of the facade between a height of two and seven feet above grade (refer to Sheets A.27 and A.28 of the project's plans). Urban Village Plan Standards DS-5 requires a minimum floor-to-ceiling height of the ground floor commercial space to be 15 feet, which the project meets (see Sheet A.20). Urban Village Plan Figures 5-1 and 5-2 show the urban design framework and the height restriction, respectively, designated for the project site. The project site meets each of the requirements designated for the project site as it is proposed for mixed use (as designated in Figure 5-1) and within the height restriction of 120 feet, which is typically between 9 to 12 stories (as identified in Figure 5-2). Moreover, the proposed project is compliant with Urban Village Plan Standard DS-9, which requires that new projects over 55 feet in height must provide detailed visualizations that show what the project would look like from the street level, from different perspectives and distances, within the context of the neighborhood including both current and proposed projects; the project plans' Sheets A.27 through A.32 illustrate compliance with this standard.

Design standards for streetscape and architectural improvements and landscaping are found throughout the Urban Village Plan. The project is subject to compliance with these standards and performance measures. Site-specific details for project materials are identified in the project plans (Sheet A.26) and include materials such as stucco white sand for the exterior walls, with wood panels for architectural elements on the face of the building, and white concrete and architectural glazing throughout. Onsite landscaping and tree disposition are presented on Sheets L.01 through L.05 of the project's plans. Street improvements and utilities are identified on the Conceptual Grading and Utility Plan (Sheet C2.0). Review of the project plans indicates the proposed project complies with minimum requirements for heights,

placement of parking areas, and pedestrian access. General Plan Policy H-3.2 indicates the design of high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas (i.e. the project site) to use architectural elements or themes from the surrounding neighborhood when appropriate and to create a building scale that does not overwhelm the neighborhood (City of San José 2011, Chapter 4, p. 33). The proposed project is compliant with the standards and requirements of the Urban Village Plan and, therefore, would comply with this General Plan policy.

In addition, the proposed project would be required to comply with the zoning standards identified for sites within the Commercial Pedestrian Zoning designation. Section 20.40.560 requires screening, such as a fence, at a property line that abuts residential uses; the proposed project includes a five-foot high-tube steel fence at the northern perimeter of the project site due to that adjacent residential use. The proposed project also complies with the height restrictions of the zoning district, which Section 20.40.200 states is the height established within an approved Urban Village Plan (i.e. 120 feet pursuant to the *Santana Row/Valley Fair Urban Village Plan*). Section 20.40.540 discusses lighting adjacent to residential properties requiring that projects shield light and ensure that light is reflected away from adjacent residential uses; the project would be required to comply with this zoning requirement in order to ensure no impacts would occur.

The proposed project would comply with all applicable zoning and other regulations governing scenic quality, such as the City's General Plan policies, the Urban Village Plan's standards, and the Commercial Pedestrian zoning requirements.

d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?

(**Less Than Significant**)

The project site is currently developed with three one-story residences. The existing uses result in minimal light and glare with porch lights and the lights within the occupied residences. Existing sources of light in the vicinity of the project site are primarily from adjacent residences and commercial sites, streetlights, and headlights of vehicular traffic on S. Redwood Avenue, Hemlock Avenue, S. Baywood Avenue, and Hatton Street.

The proposed project would include security lights and decorative outdoor lighting. The project would increase the amount of nighttime lighting on the project site. Impacts to the visual environment resulting from new sources of light and glare generated by development consistent with the General Plan were addressed in the General Plan EIR, Section 3.12. The General Plan EIR analysis concluded that new sources of light and glare would be reduced and managed consistent with City regulations and adopted General Plan policies (City of San José 2011, p. 736).

The proposed project would also be required to comply with the City's adopted Lighting Policy 4-2 and Private Outdoor Lighting Policy 4-3 to control the amount and color of light shining on streets and sidewalks (City of San José 2011, p. 736) reducing impacts to a less-than-significant level. All outdoor lighting would be shielded to direct light downwards to ensure that lighting does not spill over onto nearby residential properties, consistent with the City's regulations (Section 20.40.540).

The proposed project would comply with applicable policies set forth to reduce impacts related to light and glare generated by new development. Development of the site would contribute to the less than significant impacts related to light and glare identified and addressed by the General Plan EIR. No mitigation is required.

4.2 AGRICULTURAL RESOURCES

4.2.1 Agricultural Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	☐	☐	☐	☒	1,3,4,9, 10,11
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1,3,4,9, 10,11
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	1,3,4,9, 10,11
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	1,3,4,9, 10,11
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	1,3,4,9, 10,11

4.2.2 Environmental Setting

The project site is currently developed with three residences, one detached garage, and one shed and is located in a developed, urban area of the City surrounded by development that includes residential and commercial uses and roadways. The project site is zoned Commercial Pedestrian and designated in the General Plan as Urban Village.

The California Department of Conservation manages the Farmland Mapping and Monitoring Program to assess and record how suitable a particular tract of land is for agricultural purposes. In each county, the land is analyzed for soil and irrigation quality and the highest quality land is designated as Prime Farmland. The project site and its vicinity do not have any identified farm-related, agricultural, or forest land (California Department of Conservation 2018).

4.2.3 Regulatory Setting

State

The California Farmland Mapping and Monitoring Program produces maps and statistical data for analyzing impacts on California's agricultural resources. Agricultural land is rated according to soil quality and irrigation status, and the best quality land is categorized as Prime Farmland.

The California Land Conservation Act of 1965 (Williamson Act) enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use.

Local

Envision San José 2040 General Plan

The General Plan includes Land Use Goals, Policies, and Implementation Actions that guide the form of future development in the City and help tie individual projects to the vision for the surrounding area and City as a whole. The following policies are specific to agriculture and forest resources and apply to the proposed project (City of San José 2011):

> **Policy LU-12.3** Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means:
>
> - Limit residential uses in agricultural areas to those which are incidental to agriculture.
> - Restrict and discourage subdivision of agricultural lands.
> - Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.
> - Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.
> - Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.

4.2.4 Impact Discussion

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?

(**No Impact**)

The project site is within a highly urbanized area and is designated as Urban and Built-up Land by the California Department of Conservation Important Farmland Map (California Department of Conservation 2018).

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

(**No Impact)**

The project site is zoned Commercial Pedestrian. Further, according to the City's Public GIS Viewer, the project site is not in a Williamson Act contract.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

(No Impact)

The project site is zoned Commercial Pedestrian and currently developed with three residences, one detached garage, and one shed. Accordingly, there are no identified timberland production zones or forest land on the project site. Therefore, the project would have no impact on zoning for forest land or timberland production. There would be no impact.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

(**No Impact**)

The project site is zoned Commercial Pedestrian and is currently developed with three residences, one detached garage, and one shed. Accordingly, the proposed project would have no impact on converting forest land to non-forest use or result in loss of forest land.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use or conversion of forest land to non-forest use?

(**No Impact**)

The project is in an urbanized area and therefore, the project would not result in the conversion of farmland to non-agricultural use.

4.3 AIR QUALITY

4.3.1 Air Quality Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					1, 34, 35, 36, 37
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☒	☐	☐	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐	1, 3, 35, 36
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐	37
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people)?	☐	☐	☒	☐	1

4.3.2 Environmental Setting

Regional Climate

The City of San José, including the project site, is located within the boundaries of the San Francisco Bay Area Air Basin (air basin). The air basin encompasses all of Alameda, Contra Costa, Santa Clara, San Francisco, San Mateo, Marin and Napa counties, and the southern portions of Solano and Sonoma counties. The air basin is characterized by complex terrain, consisting of coastal mountain ranges, inland valleys, and bays, which distort normal wind flow patterns. The climate in the air basin is dominated by the strength and location of a semi-permanent, subtropical high-pressure cell. During the summer, the Pacific high-pressure cell is centered over the northeastern Pacific Ocean resulting in stable meteorological conditions and a steady northwesterly wind flow. In the winter, the Pacific high-pressure cell weakens and shifts southward resulting in wind flow offshore, the absence of upwelling, and the occurrence of storms. Weak inversions coupled with moderate winds result in a low air pollution potential.

The Santa Clara Valley is bounded by the San Francisco Bay to the north and by mountains to the east, south and west. Temperatures are warm on summer days and cool on summer nights, and winter temperatures are fairly mild. A northwesterly sea breeze flows through the valley during the afternoon, and a light southeasterly drainage flow occurs during the evening and early morning. Wind speeds are greatest in the spring and summer and weakest in the fall and winter. Nighttime and early morning hours frequently have calm winds in all seasons, while summer afternoons and evenings are quite breezy. Strong winds are rare, associated mostly with the occasional winter storm.

Criteria Air Pollutants

The six most common and widespread air pollutants of concern, or "criteria pollutants," are ground-level ozone, nitrogen dioxide, particulate matter, carbon monoxide, sulfur dioxide, and lead. In

addition, reactive organic gases are a key contributor to the criteria air pollutants because they react with other substances to form ground-level ozone. Health effects of criteria air pollutants include asthma, bronchitis, chest pain, coughing, and heart diseases.

Toxic Air Contaminants

Toxic air contaminants (TACs) are pollutants that may be expected to result in an increase in mortality or serious illness or may pose a present or potential hazard to human health. Health effects include cancer, birth defects, neurological damage, damage to the body's natural defense system, and diseases that lead to death. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). Diesel exhaust is the predominant TAC in urban air and is estimated to represent about two-thirds of the cancer risk from TACs.

Sensitive Receptors

Although air pollution can affect all segments of the population, certain groups are more susceptible to its adverse effects than others. Children, the elderly, and the chronically or acutely ill are the most sensitive population groups. These sensitive receptors are commonly associated with specific land uses such as residential areas, schools, retirement homes, and hospitals. In addition, certain air pollutants, such as carbon monoxide, only have significant effects if they directly affect a sensitive population.

The closest sensitive receptors to the project site are single-family homes adjacent to the northern project site boundaries. Sensitive receptors are also located at farther distances to the south, east, and west of the project site. In addition, there are children at a daycare (Kids Park, 2-11 years old) and a preschool (Precious Moments Preschool, 2-6 years old) in the vicinity of the project site (Illingworth and Rodkin 2020). The proposed project would introduce new sensitive receptors (i.e. residents) to the area.

4.3.3 Regulatory Setting

Federal

United States Environmental Protection Agency/Federal Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act required the EPA to set National Ambient Air Quality Standards for several air pollutants on the basis of human health and welfare criteria. The Clean Air Act established two types of national air standards: primary and secondary standards. Primary standards set limits to protect public health, including the health of sensitive persons such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation, and buildings.

State

California Air Resources Board

The California Air Resources Board (CARB) is a state agency responsible for coordination and oversight of federal, state, and local air pollution control programs in California and for implementing the requirements of the federal Clean Air Act and California Clean Air Act. CARB oversees regional or local air quality management or air pollution control districts that are charged with developing attainment plans for the areas over which they have jurisdiction. CARB grants these regional or local air districts the explicit statutory authority to adopt indirect source regulations, including implementation of Best Available Control Technology, and transportation control measures, including ridesharing or flexible work hours.

Regional

Bay Area Air Quality Management District

The Bay Area Air Quality Management District (air district) is the agency with the primary responsibility for assuring that national and state ambient air quality standards are attained and maintained in the air basin. Depending on whether or not the standards are met or exceeded, the air basin is classified as being in "attainment" or "nonattainment." Table 3, San Francisco Bay Area Air Basin Attainment Status, identifies the current attainment status within the air basin for each criteria pollutant.

Table 3 San Francisco Bay Area Air Basin Attainment Status

Criteria Air Pollutants	State Standards	National Standards
Ozone	Non-attainment	Non-attainment
Respirable Particulate Matter	Non-attainment	Unclassified
Fine Particulate Matter	Non-attainment	Non-attainment
Carbon Monoxide	Attainment	Attainment
Nitrogen Dioxide	Attainment	Unclassified/Attainment
Sulfur Dioxide	Attainment	Unclassified/Attainment
Lead	-	Attainment

SOURCE: Bay Area Air Quality Management District 2017a

The air district is charged with regulatory authority over stationary sources of air emissions, monitoring air quality within the air basin, providing guidelines for analysis of air quality impacts pursuant to CEQA, and preparing an air quality management plan to maintain or improve air quality in the air basin. The air district's 2017 CEQA Air Quality Guidelines (2017 CEQA Guidelines) contain instructions on how to evaluate, measure, and mitigate air quality impacts generated from land development construction and operation activities. The air district has adopted several plans in an attempt to achieve state and federal air quality standards. The air district's currently adopted plan is the *2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017 CAP). The 2017 CAP defines an integrated, multi-pollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors and greenhouse gases.

Local

Envision San José 2040 General Plan

The General Plan includes the following air quality-related policies that are applicable to the proposed project:

> **Policy MS-10.1** Assess projected air emissions from new development in conformance with the air district CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
>
> **Policy MS-10.2** Consider the cumulative air quality impacts from propose developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and state law.
>
> **Policy MS-10.7** In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
>
> **Policy MS-11.2** For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with air district-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
>
> **Policy MS-11.7** Consult with air district to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
>
> **Policy MS-13.1** Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current air district CEQA Guidelines for the relevant project size and type.
>
> **Policy MS-13.2** Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.4 Impact Discussion

a) Conflict with or obstruct implementation of the applicable air quality plan?

(Less than Significant with Mitigation)

The 2017 CEQA Guidelines specify 2017 CAP consistency methods for plan-level evaluation only. Air district guidance for project-level analysis focuses on attainment of criteria air

pollutant emissions thresholds and health risk standards. Development projects such as the proposed project are considered to be consistent with the 2017 CAP if emissions are within the thresholds presented in the 2017 CEQA Guidelines.

Control measures in the 2017 CAP that may be applicable to the proposed project, but are not limited to this list, include:

- TR2 - Trip Reduction Programs: Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.

- TR9 – Bicycle and Pedestrian Access and Facilities: Encourage planning for bicycle and pedestrian facilities in local plans, eg. General and specific plans, fund bike lanes, routes, paths and bicycle parking facilities

- NW2 – Urban Tree Planting: Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.

During its construction and operation, the proposed project would generate criteria air pollutant emissions that do not exceed the air district thresholds (see the discussion in item "b" below). Further, the proposed project's impact on health risks standards would be less than significant with implementation of the City's standard permit condition and mitigation measure AQ-1 (see the discussion in item "c" below). Therefore, the proposed project would not conflict with or obstruct the implementation of the 2017 CAP.

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard?

(Less than Significant)

The air district has developed thresholds of significance that are used to determine whether or not the proposed project would result in a cumulatively considerable net increase of criteria air pollutants during operations and/or construction. The thresholds of significance for determining air quality impacts are contained in the 2017 CEQA Guidelines and are presented in Table 4, Thresholds of Significance for Criteria Air Pollutants.

Operational Emissions

Operation of the proposed project would result in new mobile, area, stationary, and energy source criteria air pollutant emissions. The criteria air pollutant emissions generated during operation of the proposed project were estimated using the California Emissions Estimator Model (CalEEMod) version 2016.3.2. The results include emissions reductions from compliance with State's Title 24 2019 Building Energy Efficiency Standards (BEES). Refer to Appendix B for the CalEEMod results and an assessment describing the CalEEMod modeling assumptions and methodology, *Baywood Mixed-Used Project – Criteria Air Pollutant and GHG Emissions Modeling Assessment*.

Table 4 Thresholds of Significance for Criteria Air Pollutants

Criteria Air Pollutants	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lb/day)	Average Daily Emissions (lb/day)	Annual Emissions (tons/year)
Reactive Organic Gases (ROG)	54	54	10
Nitrogen Oxides (NO_X)	54	54	10
Respirable Particulate Matter (PM_{10})	82 (exhaust)[1]	82	15
Fine Particulate Matter ($PM_{2.5}$)	54 (exhaust)[1]	54	10

SOURCE: Bay Area Air Quality Management District 2017b
NOTE:
1. The thresholds of significance for particulate matter emissions from project construction apply to exhaust emissions only. The air district recommends implementation of best management practices to reduce fugitive dust emissions.

The unmitigated operational emissions from buildout of the proposed project are summarized and reviewed against the air district thresholds in Table 5, Operational Criteria Air Pollutant Emissions.

Table 5 Operational Criteria Air Pollutant Emissions

Emissions	ROG	NO_X	PM_{10}	$PM_{2.5}$
Total Annual Emissions (tons/year)[1]	1.03	0.59	0.50	0.17
Exceeds Annual Threshold?	*No*	*No*	*No*	*No*
Average Daily Emissions (pounds/day)[1,2,3]	5.64	3.23	2.74	0.93
Exceeds Daily Threshold?	*No*	*No*	*No*	*No*

SOURCE: EMC Planning Group 2020
NOTES:
1. Results may vary due to rounding.
2. CalEEMod estimates operational criteria air pollutant emissions in tons per year. A U.S. ton is equal to 2,000 pounds. The emissions estimates in ton per year are multiped by 2,000 pounds to arrive at emissions volume in pounds per year. Average daily emissions (in pounds per day) are computed by dividing the annual operational emissions (in pounds per year) by the number of operational days (conservatively assuming 365 days of operation).
3. Includes reductions from compliance with 2019 BEES.

As summarized in Table 5, the proposed project would generate operational criteria air pollutant emissions that do not exceed the air district thresholds, resulting in a less-than-significant impact to regional air quality; the project's contribution of operational criteria air pollutant emissions to regional air quality conditions are less than cumulatively considerable.

Construction Emissions

Construction emissions include mobile source exhaust emissions, emissions generated during the application of asphalt paving material and architectural coatings, as well as emissions of fugitive dust during demolition and grading. The criteria air pollutants generated during construction of the proposed project were estimated using CalEEMod. Refer to Appendix B for project-specific construction data and detailed results.

Table 6, Construction Criteria Air Pollutant Emissions, summarizes unmitigated criteria air pollutant emissions resulting from project construction and compares them against the air district thresholds (Table 4).

Table 6 Construction Criteria Air Pollutant Emissions

Emissions	ROG	NO_X	Exhaust PM_{10}	Exhaust $PM_{2.5}$
Total Annual Emissions (tons/year)[1]	1.40	6.51	0.10	0.09
Average Daily Emissions (pounds/day)[1,2]	7.00	32.55	0.50	0.45
Exceeds Daily Threshold?	*No*	*No*	*No*	*No*

SOURCE: EMC Planning Group 2020
NOTES:
1. Results may vary due to rounding.
2. CalEEMod estimates construction criteria air pollutant emissions in tons per year. A U.S. ton is equal to 2,000 pounds. The emissions estimates in ton per year are multiped by 2,000 pounds to arrive at emissions volume in pounds per year. CalEEMod estimates a total of 400 construction days (see construction data sheet in Appendix B). Average daily emissions (in pounds per day) are computed by dividing the annual construction emissions (in pounds per year) by the number of construction days.

As summarized in Table 6, construction of the proposed project would not result in criteria air emissions that exceed the air district thresholds, resulting in a less-than-significant air quality impact; the contribution of the project's construction criteria pollutant emissions to regional air quality conditions is less than cumulatively considerable.

c) Expose sensitive receptors to substantial pollutant concentrations?

(**Less than Significant with Mitigation**)

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust and fugitive dust ($PM_{2.5}$) that poses health risks for sensitive receptors. Diesel Particulate Matter (DPM), which is a known toxic air contaminant (TAC), is a component of diesel exhaust. Illingworth & Rodkin prepared a community risk assessment (2020) to address project construction community impacts on the surrounding off-site sensitive receptors. The impact of existing sources of TACs on existing sensitive receptors and new incoming sensitive receptors was also addressed. The community risk assessment is included as Appendix C.

Construction Community Risks

The primary community risk impact issues associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Community risk impacts were addressed by predicting increased lifetime cancer risk, the increase in annual $PM_{2.5}$ concentrations, and computing the Hazard Index (HI) for non-cancer health risks.

CalEEMod was used to estimate PM_{10} exhaust emissions (assumed to be DPM) and $PM_{2.5}$ fugitive emissions from construction activities. The EPA AERMOD dispersion model was used to predict concentrations of DPM and $PM_{2.5}$ concentrations at sensitive receptors (residences, daycare) in the vicinity of the project site. The maximum increased cancer risks were calculated using the modeled TAC concentrations combined with the Office of Environmental Health Hazard Assessment guidance for age sensitivity factors and exposure parameters as recommended by the air district.

The maximum-modeled annual DPM and $PM_{2.5}$ concentrations, were used to identify the maximally exposed individuals (MEIs). The community risk assessment indicated that the construction residential MEI was located at the single-family home southeast of the project site. The maximum increased cancer risks would exceed the air district significance threshold

of 10 in one million and the maximum $PM_{2.5}$ concentrations would exceed the air district significance threshold of 0.3 $\mu g/m^3$ (Illingworth and Rodkin 2020, Table 2). Additional modeling was conducted to determine the health risks associated with project construction activities at the nearby daycare and preschool. The health risks at the nearby daycare and preschool were found not to exceed the air district's single-source significance thresholds.

Implementation of the City's standard permit conditions and Mitigation Measure AQ-1 would reduce the health risks to a less-than-significant level. The maximum cancer risk from project construction, assuming infant exposure, would be reduced from 55.7 cases per million to 7.1 cases per million. The maximum annual $PM_{2.5}$ concentration would be reduced from 1.06 $\mu g/m^3$ to 0.26 $\mu g/m^3$, and the HI would be reduced from 0.05 to 0.01.

Standard Permit Condition

The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

i. Water active construction areas at least twice daily or as often as needed to control dust emissions.

ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).

v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.

vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.

vii. Replant vegetation in disturbed areas as quickly as possible.

viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

ix. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

x. Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.

xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Mitigation Measure

AQ-2 Prior to the issuance of any demolition, grading or building permits, the project applicant shall implement a Construction Particulate Matter Exhaust Emissions Reduction Plan to reduce construction particulate matter exhaust emissions by at least 87 percent; the maximum cancer risk from project construction would be reduced from 55.7 cases per million to 7.1 cases per million, the maximum annual $PM_{2.5}$ concentration would be reduced from 1.06 $\mu g/m^3$ to 0.26 $\mu g/m^3$, and the HI would be reduced from 0.05 to 0.01. The plan shall be reviewed and approved by the City of San José Director of Planning, Building and Code Enforcement or Director's designee and may include the following measures:

a. All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA tier 4 emission standards for particulate matter; or

   i. Use equipment with engines that meet U.S. EPA Tier 3 standards equipped with CARB-certified Level 3 Diesel Particulate Filters, that altogether achieve an 87 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment (i.e., maximum annual $PM_{2.5}$ concentration would be 0.26 μg/m3 and the HI would be 0.01); and/or

   ii. Use of alternatively fueled equipment or equipment with zero emissions (i.e., electrical equipment); and/or

   iii. Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

b. The plan shall utilize the above measures or equivalent measures, and must demonstrate that particulate matter exhaust emissions would be reduced by at least 87 percent (i.e., maximum annual $PM_{2.5}$ concentration would be 0.26 μg/m3 and the HI would be 0.01), and any alternative measures shall be subject to review and approval of the City of San José Director of Planning, Building and Code Enforcement or Director's designee, prior to issuance of any demolition, grading, or building permits.

Implementation of the City's standard permit condition and mitigation measure AQ-1 would reduce significant impacts associated with exposure of sensitive receptors to toxic air contaminants during construction by requiring that the project contractor implement best management practices to reduce emissions of dust and exhaust and implement a plan to reduce construction particulate matter exhaust emissions by at least 87 percent, subject to review and approval of the City of San Jose Planning Director. These conditions would need to be satisfied prior to issuance of grading permits.

Cumulative Community Risks

Community health risk assessments typically look at all substantial sources of TACs that can affect sensitive receptors that are located within 1,000 feet of a project site (i.e. influence area). These sources include rail lines, highways, busy surface streets, and stationary sources identified by the air district.

A review of the project influence area indicates that traffic on Stevens Creek Boulevard and Monroe Street would exceed an average daily traffic of 10,000 vehicles. Other nearby streets are assumed to have less than 10,000 vehicles per day. The proposed project would contribute traffic to these roadways. A refined analysis of potential health impacts from vehicle traffic on Stevens Creek Boulevard and Monroe Street was conducted. The refined analysis involved predicting emissions for the traffic volume and mix of vehicle types on both roadways near the project site and using an atmospheric dispersion model to predict exposure to TACs. The associated cancer risks are then computed based on the modeled exposures.

A review of the air district's stationary source geographic information systems map tool identified three stationary sources with the potential to affect the project site and MEI.

Permitted stationary sources of air pollution near the project site were identified using the air district's *Permitted Stationary Sources 2018* website. This mapping tool identifies the location of nearby stationary sources and their estimated risk and hazard impacts. Three sources were identified using this tool with two of the sources being generators, and one source being a gas dispensing facility. A Stationary Source Information Form containing the identified sources was prepared and submitted to the air district. The air district provided input and clarification about the stationary sources.

Table 3 of the community risk assessment reports both the project and cumulative community risk impacts at the sensitive receptor most affected by construction (i.e. the construction MEI). Without mitigation, the project would have an exceedance with respect to community risk caused by project construction activities, since the maximum increased cancer risk and maximum annual $PM_{2.5}$ concentration exceed their single-source thresholds. The combined unmitigated annual $PM_{2.5}$ concentration would also exceed the air district cumulative-source thresholds. However, with the implementation of the City's standard permit condition and Mitigation Measure AQ-1, the project's risk would be lowered to levels below the single-source thresholds and the cumulative risks would no longer exceed the cumulative threshold.

On-site Community Risks

For informational purposes only, the community risk assessment analyzed the impacts existing TAC sources would have on the new proposed sensitive receptors (i.e. residents) that the project would introduce. The community risk assessment found that none of the sources exceed the single-source or cumulative-source thresholds (Illingworth and Rodkin 2020, Table 4). Therefore, new sensitive receptors introduced by the project would not be exposed to unacceptable TACs from existing sources. No mitigation measures are required.

d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people)?

(**Less than Significant**)

The proposed project would not result in any objectionable odors during the operational phase. During project construction, there may be nuisance diesel odors associated with operation of diesel construction equipment on-site, but this effect would be localized, sporadic, and short-term in nature. Therefore, temporary impacts from nuisance diesel odors on adjacent residential receptors would be less than significant.

4.4 BIOLOGICAL RESOURCES

4.4.1 Biological Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☒	☐	☐	1,4,13
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	1,12,13
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filing, hydrological interruption, or other means?	☐	☐	☐	☒	1,10,13
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒	1,10,13
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	1,4,10, 13,30,61
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	1,4,10, 13,60

4.4.2 Environmental Setting

The project site is fully developed with three residences, one detached garaged, and one shed; it contains seven non-native ornamental trees with additional landscaping present throughout the site. According to the General Plan EIR, 13 special-status plants (p. 427) and over 50 special-status animals (p. 436) have the potential to occur in the City. However, due to the disturbed/developed nature of the project site and because it is surrounded in all directions by densely developed properties, it has very low habitat value and is not expected to support special-status species.

4.4.3 Regulatory Setting

Federal and State

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act of 1989 prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This Act encompasses whole birds, parts of birds, bird nests, and eggs of over 800 native birds, including many common species.

California Endangered Species Act

Pursuant to the California Endangered Species Act and Section 2081 of the California Fish and Game Code, an Incidental Take Permit from the CDFW is required for projects that could result in the "take" of a state-listed Threatened or Endangered species. "Take" is defined under these laws as an activity that would directly or indirectly kill an individual of a species. If a project would result in the "take" of a state-listed species, then a CDFW Incidental Take Permit, including the preparation of a conservation plan, would be required.

Clean Water Act

Section 404 of the Clean Water Act of 1972 regulates the discharge of dredge and fill material into "Waters of the U.S." including wetlands. Certain natural drainage channels and wetlands are considered jurisdictional "Waters of the U.S." The U.S. Army Corps of Engineers (USACE) is responsible for administering the Section 404 permit program. The agency determines the extent of its jurisdiction as defined by ordinary high-water marks on channel banks. Wetlands are habitats with soils that are intermittently or permanently saturated, or inundated. The resulting anaerobic conditions naturally select for plant species known as hydrophytes that show a high degree of fidelity to such soils. Wetlands are identified by the presence of hydrophytic vegetation, hydric soils (soils intermittently or permanently saturated by water), and wetland hydrology according to methodologies outlined in the 1987 *Corps of Engineers Wetland Delineation Manual* and the 2008 *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)*.

Activities that involve the discharge of fill into jurisdictional waters are subject to the permit requirements of the USACE. Discharge permits are typically issued on the condition that the project proponent agrees to provide compensatory mitigation which results in no net loss of wetland area, function, or value, either through wetland creation, restoration, or the purchase of wetland credits through an approved wetland mitigation bank. In addition to individual project discharge permits, the USACE also issues general nationwide permits applicable for certain activities.

Regional and Local

Santa Clara Valley Habitat Plan

The Santa Clara Valley Habitat Plan (Habitat Plan) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County; the Cities of San José, Morgan Hill, and Gilroy; the Santa Clara Valley Water District (Valley Water); the Santa Clara Valley Transportation Authority; the

U.S. Fish and Wildlife Service; and the California Department of Fish and Wildlife. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan, and implementing entities require a permit be obtained for covered projects.

City of San José Tree Ordinance

The City of San José maintains the urban landscape partly by promoting the health, safety, and welfare of the City by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees having a main stem or trunk which measures thirty-eight (38) inches or more in circumference (approximately 12 inches or more in diameter) at a height of fifty-four (54) inches above natural grade slope. Ordinance trees are generally mature trees that help beautify the City, slow erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality.

The City requires a permit for the removal of any live or dead ordinance tree. The City also requires a permit for the removal of any Unsuitable Tree from any private parcel of land unless a development permit or permit adjustment has been issued pursuant to Title 20 of the City's Municipal Code that allows the tree removal, or a tree removal permit that allows the removal of that Unsuitable Tree has first been issued and accepted by the applicant pursuant to the provisions of Municipal Code Section 13.32.

Envision San José 2040 General Plan

The City of San José has policies to preserve, avoid, and mitigate impacts to biological resources in the City. The following General Plan goals and policies are applicable to the project (City of San José 2011):

> **Policy ER-5.1** Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
>
> **Policy ER-5.2** Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
>
> **Policy MS-21.4** Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
>
> **Policy MS-21.5** As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6 As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

4.4.4 Impact Discussion

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?

(**Less than Significant with Mitigation**)

The project site is fully developed with three existing residences, one detached garage, and one shed in a highly urbanized area of the City where biological resources are limited. Special-status plants are not expected to occur in areas of the City already urbanized due to previous land modifications and removal of native plants, and because they do not support natural plant communities (City of San José 2011, p. 478). Special-status animals are not expected to occur in urban areas of the City developed with structures and paving and that do not support natural plant communities since these areas do not meet habitat requirements for nesting, foraging, or cover (City of San José 2011, p. 481). Other than in riparian areas, vacant areas that support grassland, serpentine grassland vegetation, and agricultural habitats, special-status animal species are not expected to occur within most developed areas in the City (City of San José 2011, p. 481). Special-status species are not expected to occur on the site.

However, mature trees within or adjacent to the project site may provide nesting habitat for migratory birds. Raptors and their nests are protected under the Migratory Bird Treaty Act of 1928 and California Fish and Game Code. The removal of trees that may provide nesting habitat would be a significant impact that requires the following mitigation measure to protect potentially occurring nesting birds and reduce the impact to a less-than-significant level.

Mitigation Measure

BIO-1 Prior to the issuance of any tree removal, grading, building, or demolition permits (whichever occurs first), the project applicant shall schedule all construction activities to avoid nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching. If construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), a qualified ornithologist or biologist shall conduct pre-construction nesting bird surveys to ensure that no active nests shall be disturbed during construction activities. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the latter part of the breeding season (May 1st through August 31st inclusive). Appropriate minimum survey radius

surrounding the work area is typically 250 feet for passerines, 500 feet for smaller raptors, and 1,000 feet for larger raptors. Surveys shall be conducted at the appropriate times of day to observe nesting activities.

If an active nest is found within the project site or in nearby surrounding areas, the ornithologist/biologist, in coordination with California Department of Fish and Wildlife (CDFW), shall determine an appropriate buffer around the nest (typically 250 feet for raptors and 100 feet for other birds) to ensure that raptors or migratory birds nests shall not be disturbed during project construction. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently.

Prior to any site disturbance, such as tree removal, or the issuance of any grading, building or demolition permits (whichever occurs first), the qualified biologist shall conduct baseline monitoring of each nest to characterize "normal" bird behavior and establish a buffer distance, which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily during construction activities and increase the buffer if birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest).

If buffer establishment is not possible, the qualified biologist or construction foreman shall have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active. If pre-construction nesting bird surveys are necessary, based upon the requirements of this mitigation measure, then a survey report shall be prepared and submitted to the Director of Planning, Building and Code Enforcement, or the director's designee prior to any site disturbance, such as tree removal, or the issuance of any grading, building or demolition permits (whichever occurs first). The project developer is responsible for this measure.

With implementation of the above mitigation, the project developer would be required to obtain a qualified biologist prior to the commencement of construction activities. The qualified biologist would be present during the bird nesting season if the project is under construction, conduct surveys and baseline monitoring, and designate buffers so as to protect any active nests within the project area. This would reduce the potentially significant adverse impacts on nesting birds to a less-than-significant level.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?

(**No Impact**)

The developed project site is located within an urban area and does not contain any sensitive natural communities. The nearest riparian habitats are the Los Gatos Creek, located approximately two miles southeast of the project site, and the San Tomas Aquino Creek, located approximately one mile west of the project site. Therefore, the City's Riparian Corridor Protection and Bird-Safe Design Policy (Council Policy 6-34), which is applicable to projects within 300 feet of a riparian corridor's top of bank or edge of vegetation (City of San José

2016), is not applicable to the proposed project. The project would not conflict with the Riparian Corridor Policy, or have an adverse effect on any riparian habitat, and would not result in a loss of sensitive habitat.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filing, hydrological interruption, or other means?

(No Impact)

According to the City's Public GIS Viewer and current aerial photographs, there are no wetlands or waterways present on or adjacent to the project site.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

(**No Impact**)

Urbanized parcels in the City are not considered important for regional movement of wildlife species (City of San José 2011, p. 474). Therefore, the proposed project would not interfere with wildlife movement or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

(**No Impact**)

According to Sheet L.04 of the project plans (Appendix A), the proposed project includes planting 60 new trees around the perimeter of the ground floor and roof top. Additional landscaping such as shrubs, grasses, and groundcover are also proposed around the perimeter of the project site. However, the project site contains seven (7) existing trees located throughout the site that would all be removed for development of the proposed project. There are two trees onsite that are of ordinance size (i.e. 12 inches or more in diameter). Information on the two non-native ornamental ordinance-sized trees can be found in the project arborist report, which recommends removal of these "unsuitable trees":

1. Tree No. 1: 19-inch diameter tree of heaven (*Ailanthus altissima*) located in the northern portion of the site at the proposed garage entry.

2. Tree No. 7: 13-inch diameter California fan palm (*Washingtonia filifera*) located in the southeast corner of the site.

The proposed project would be required to adhere to the City's tree removal permitting and tree replacement requirements for ordinance-sized trees, as outlined in the standard permit condition below.

Standard Permit Condition

The trees removed by the proposed project would be replaced according to the City's required replacement ratios, as provided in the table below (also found on Sheet L.05, the project's proposed tree disposition plan).

The project would include 60 new trees in addition to a variety of shrubs, grasses and groundcover. Therefore, with implementation of the above standard permit condition, the proposed project would not conflict with any local policies or ordinances protecting biological resources.

Table 7 Tree Replacement Ratio

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

SOURCE: Carpira Design Group Company 2020
NOTES: (1) X:X = tree replacement to tree loss ratio
(2) Ordinance-sized tree. Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.
(3) A 38-inch tree equals 12.1 inches in diameter.
(4) A 24-inch box tree = two 15-gallon trees.
(5) Single Family and two-dwelling properties may be mitigated at a 1:1 ratio.

Since (all) seven trees onsite would be removed, two trees would be replaced at a 4:1 ratio, four trees would be replaced at a 2:1 ratio, and the remaining tree, as an orchard, would not be replaced via City ratios identified in the above table. As mentioned previously, there are no native trees on-site. The total number of replacement trees required to be planted would be 16 trees, but the project is proposing to plant 60 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.

Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

(**No Impact**)

The project site is located within the Santa Clara Valley Habitat Plan boundaries. According to the *Habitat Agency Geobrowser* and current aerial photographs, the project site parcels are correctly mapped as Urban-Suburban (developed) and are surrounded by developed parcels. The site is not located in a land cover fee zone or any other special fee zone. No special-status plant or wildlife surveys are required, and the site is not in the Urban Reserve System Interface Zone. Given these factors, it is expected that the City Planning Department would approve a Habitat Plan permit for the proposed project through a streamlined "Nitrogen Deposition-Only" application form with fees based on the number of proposed new residential units.

The proposed project would be required to adhere to the Habitat Plan, as outlined in the standard permit condition below.

Standard Permit Condition

The proposed project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permit. The project applicant would be required to submit a Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building, and Code Enforcement or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

4.5 CULTURAL RESOURCES

4.5.1 Cultural Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to section 15064.5?	☐	☐	☒	☐	1,6,28, 56
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?	☐	☐	☒	☐	1,4,59
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐	1,4

4.5.2 Environmental Setting

Structural Historic Resources

The City has identified approximately 160 City Landmarks in its Historic Resources Inventory; 25 of which are on the National Register, nine are considered a State of California Landmark, and four are State Points of Historical Interest. According to the City's Public GIS Viewer, the nearest City Landmark to the project site is approximately 0.3 miles southwest.

The project site consists of three existing residences, one detached garage and one shed, which are not listed on the City's Historic Inventory of City Landmarks (City of San José 2020). However, the three existing residences are more than 50 years of age and, therefore, two historic evaluations were prepared by Archives and Architecture in April 2018 and July 2020 to determine the historic value of the existing structures on the project site. The 2018 historic evaluation determined that the two existing structures on 375 and 383 S. Baywood Avenue are not historically significant according to the minimum requirements for listing on the California Register of Historical Resources or as San José City Landmarks (Archives and Architecture 2018). The 2020 historic evaluation was used as supplemental information that appends the 2018 historic evaluation and also determined that the existing structure located at 382 S. Redwood Avenue does not qualify for listing on the California Register of Historical Resources and does not express the values outline in the City's Historic Preservation Ordinance in order to consider eligibility (Archives and Architecture 2020).

Historic and/or Unique Archaeological Resources

As identified in the General Plan EIR, most prehistoric archaeological sites have been found along or very near fresh water sources such as creeks and springs, in valleys near both permanent and seasonal water sources including freshwater marshes once present throughout the valley, at the base of the hills, and along and adjacent to the major north/south Native American trails as well as at stone sources for tools in the foothills surrounding the valley (City of San José 2011). According to the General Plan EIR, the West Valley Planning Area, where the project site is located, is considered an archaeologically sensitive area (p. 698).

An archaeological records search was conducted for the 2018 proposed project, which did not include the property located on S. Redwood Avenue. However, the records search included more than just the project site that was proposed at that time and, therefore, the City is accepting this original archaeological records search for this 2020 proposed project (Thai-Chau Le, email message, August 17, 2020).

4.5.3 Regulatory Setting

Federal

National Register of Historic Places

The National Register of Historic Places (National Register or NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering, and culture, at the local, State, and national level. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context" and second, the property must retain integrity of those features necessary to convey its significance. A resource is considered eligible for the National Register if the quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

1. Are associated with events that have made a significant contribution to the broad pattern of our history;

2. Are associated with the lives of persons significant to our past;

3. Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

4. Yielded, or may be likely to yield, information important in prehistory or history.

State

California Environmental Quality Act (§ 15064.5. Determining the Significance of Impacts to Archaeological and Historical Resources)

a. For purposes of this section, the term "historical resources" shall include the following:

    1. A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code §5024.1, Title 14 CCR, Section 4850 et seq.).

    2. A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

3. Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code, § 5024.1, Title 14 CCR, Section 4852) including the following:

    i. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

    ii. Is associated with the lives of persons important in our past;

    iii. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

    iv. Has yielded, or may be likely to yield, information important in prehistory or history.

4. The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.

b. A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

    1. Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.

    2. The significance of an historical resource is materially impaired when a project:

        i. Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or

        ii. Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of

section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

iii. Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

3. Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.

4. A lead agency shall identify potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures.

5. When a project will affect state-owned historical resources, as described in Public Resources Code Section 5024, and the lead agency is a state agency, the lead agency shall consult with the State Historic Preservation Officer as provided in Public Resources Code Section 5024.5. Consultation should be coordinated in a timely fashion with the preparation of environmental documents.

c. CEQA applies to effects on archaeological sites.

1. When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subdivision (a).

2. If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the Public Resources Code, and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the Public Resources Code do not apply.

3. If an archaeological site does not meet the criteria defined in subdivision (a), but does meet the definition of a unique archeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of section 21083.2. The time and cost limitations described in Public Resources Code Section 21083.2 (c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.

4. If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

d. When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code section 5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission." Action implementing such an agreement is exempt from:

    1. The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5).

    2. The requirements of CEQA and the Coastal Act.

e. In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:

    1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

        i. The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and

        ii. If the coroner determines the remains to be Native American:

            1. The coroner shall contact the Native American Heritage Commission within 24 hours.

            2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.

            3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or

    2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

        i. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.

ii. The descendant identified fails to make a recommendation; or

iii. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

f. As part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

California Health and Safety Code

The California Health and Safety Code (§ 7050.5) requires that in the event of discovery or recognition of human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission by telephone within 24 hours.

Local

Envision San José 2040 General Plan

Chapter 3 of the General Plan sets forth sustainability goals for the City through 2040. The Environmental Resources section discusses archaeology- and paleontology-related Goals, Policies, and Actions. Chapter 6 of the General Plan discusses the land use policies that focus on historically-significant buildings and areas of the City. Chapter 7 provides environmental clearance goals and policies that relate to cultural resources. The following are applicable policies that relate to the proposed project (City of San José 2011):

> **Policy ER-10.1** For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
>
> **Policy ER-10.2** Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

Policy ER-10.3 Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Policy LU-13.9 Promote the preservation, conservation, rehabilitation, restoration, reuse, and/ or reconstruction, as appropriate, of contextual elements (e.g., structures, landscapes, street lamps, street trees, sidewalk design, signs) related to candidate and/or landmark buildings, structures, districts, or areas.

Policy IP-12.3 Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the avoidance of natural and human-made hazards and the preservation of natural, historical, archaeological and cultural resources.

City of San José Municipal Code – Historic Preservation Ordinance

The City of San José has enacted an ordinance providing for the designation if historic resources as City Landmarks (Historic Preservation Ordinance, Municipal Code 13.48.110). Based upon the General Plan goals and policies, and the City of San José Historic Preservation Ordinance, the criteria for designation are similar to those for listing on the California Register of Historical Resources but oriented to the local context.

4.5.4 Impact Discussion

a) Cause a substantial adverse change in the significance of a historical resource pursuant to section 15064.5?

(**Less Than Significant**)

Pursuant to CEQA Guidelines section 15064.5, historic resources can be both above- and belowground.

Aboveground historic resources. The project site is developed with three residences, one detached garage, and one shed. According to the City's *Historic Resources Inventory*, the project site does not contain historic resources defined under the Public Resources Code Section 15064.5 (City of San José 2020). In addition, the 2018 historic evaluation prepared on the existing structures on 375 and 383 S. Baywood Avenue determined that they are not historically significant according to the minimum requirements for listing on the California Register of Historical Resources or as a City Landmarks. These two buildings do not appear to qualify for the California Register or as a City Landmark; therefore, demolition would not have an adverse effect on historic resources under CEQA (Archives and Architecture 2018, p. 2).

In addition, the 2020 historic evaluation was used as supplement information to append the 2018 historic evaluation. The 2020 historic evaluation also determined that the existing structure on 382 S. Redwood Avenue also is not historically significant according to the minimum requirements for listing on the California Register of Historical Resources or as a City Landmarks. Based on these results, demolition of the existing structure would not have an adverse effect on historic resources under CEQA (Archives and Architecture 2020, p. 4).

Belowground historic resources. There are no known historic resources present on the project site. However, the proposed project involves extensive excavation, which could result in the discovery of unknown historic resources. Therefore, the standard permit conditions presented in checklist question b) below would be required to ensure impacts to historic resources are reduced to a less-than-significant level.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?

(**Less than Significant**)

The project site is located within the City's West Valley Planning Area, which is an archaeologically sensitive area (City of San José 2011, p. 698). Therefore, an archaeological records search was conducted. This records search was prepared for the 2018 proposed project at the project site, which did not include the property located on S. Redwood Avenue. However, the City has accepted its use in this 2020 proposed project (Thai-Chau Le, email message, August 17, 2020) due to the archaeological records search exploring all records of identified cultural resources within a quarter mile of the site and all archaeological resources reports for projects within a 50-meter radius of the site.

The archaeological records search identified no archaeological sites within one-quarter mile and based on the review of historical land use, the archaeological records search determined that there is a low potential for historic archaeological deposits within the project area. Although the archaeological records search recommends that no additional archaeological study is required and no archaeological sites were identified within the project area, it states the potential that buried or previously unrecognized archaeological deposits, or materials of any kind, could be inadvertently exposed during any construction activity. Therefore, the below standard permit conditions would be required to reduce potential impacts to a less-than-significant level.

Standard Permit Conditions

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer will be notified, and a qualified archaeologist will examine the find. The archaeologist will 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

(Less Than Significant)

The proposed project would include grading and excavation for the subgrade parking structure, which could accidentally disturb unknown human remains onsite. As part of the development approval by the City, the proposed project would be required to conform to the following standard permit conditions in order to ensure less than significant impacts on the potential discovery and disturbance of human remains.

Standard Permit Conditions

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building, and Code Enforcement or the Director's designee and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

- If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

- If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

    - The NAHC is unable to identify an MLD or the MLD failed to make a recommendation within 48 hours after being notified by the NAHC;

    - The MLD identified fails to make a recommendation; or

    - The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

4.6 ENERGY

4.6.1 Energy Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					1, 38, 39, 40, 47, 48
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐	
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒	1, 47, 48

4.6.2 Environmental Setting

Pacific Gas and Electric, one of the five largest utilities in the state, is the primary purveyor of electricity and natural gas in the City of San José. Pacific Gas and Electric operates a major network of electricity and natural gas transmission lines within its service area, including the city.

For more than a decade, federal, state, and regional energy agencies and energy providers have been focused on reducing growth in fossil-fuel based energy demand, especially in the form of transportation fuels and electricity. Key environmental goals have been established to reduce air pollutants and GHGs. As a result, investments in a range of transportation technologies, alternative energy technologies, energy efficiency and energy conservation programs have been increasing, as has the focus on land use planning as a tool to reduce vehicle trips/lengths and transportation related energy use.

4.6.3 Regulatory Setting

Energy efficiency, energy conservation, and transportation fuel efficiency (through vehicle trip reduction and improved mileage) goals are embodied in many federal, state, and local statutes and policies. Representative state energy efficiency and conservation, and transportation energy demand guidance, regulations, and legislation are summarized below, as are those of the City of San José.

State

California Building Codes

California's Energy Efficiency Standards for Residential and Nonresidential Buildings (California Code of Regulations, Title 24, Part 6) were first established in 1978 to reduce California's energy consumption. The California Energy Code is updated every three years by the California Energy Commission as the BEES. Adopted by the California Energy Commission in May 2018, the 2019 BEES went into effect on January 1, 2020. The 2019 BEES are structured to achieve the state's goal that all new low-rise residential buildings (single-family homes) be zero net energy. Multi-family homes and non-residential buildings built to the 2019 BEES will use about 30 percent less energy compared to the 2016 BEES (California Energy Commission 2018). The California Building Standards Code is enforceable at the project-level.

The Green Building Standards Code (also known as CALGreen), which requires all new buildings in the state to be more energy efficient and environmentally responsible, was most recently updated in July 2019. These comprehensive regulations are intended to achieve major reductions in interior and exterior building energy consumption.

Assembly Bill 1493 (Pavley I Rule)

AB 1493 was enacted on July 22, 2002 and requires CARB to develop and adopt regulations that improve fuel efficiency of vehicles and light-duty trucks. Pavley I requirements apply to these vehicles in the model years 2009 to 2016.

Renewable Energy Legislation/Orders

The California Renewable Portfolio Standard Program, which requires electric utilities and other entities under the jurisdiction of the California Public Utilities Commission to meet 20 percent of their retail sales with renewable power by 2017, was established by SB 1078 in 2002. The program was subsequently expanded by the renewable electricity standard in September 2010, requiring all utilities to meet a 33 percent target by 2020. On September 10, 2018, former Governor Brown signed into law SB 100 and Executive Order B-55-18. SB 100 raises California's Renewable Portfolio Standard requirement to 50 percent by December 31, 2026, and to 60 percent by December 31, 2030. Executive Order B-55-18 establishes a carbon neutrality goal for California by 2045 and a goal to maintain net negative emissions thereafter.

Senate Bill 743

Effective July 1, 2020, SB 743 updates the way transportation impacts are measured in California for new development projects, making sure they are built in a way that allows Californians more options to drive less. SB 743 will help California achieve its climate commitments, preserve the environment, improve health and safety, and boost its economy by prioritizing co-located jobs, services, and housing. SB 743 will also reduce the time spent in vehicles to get to places, thereby reducing fuel consumption and GHG emissions.

Local

Envision San José 2040 General Plan

The General Plan includes the following energy conservation and renewable energy use policies that are applicable to the proposed project:

> **Policy MS-1.6** Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
>
> **Policy MS-2.3** Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
>
> **Policy MS-2.4** Promote energy efficient construction industry practices.

Policy MS-2.6 Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.

Policy MS-2.11 Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).

Policy MS-14.4 Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Council Policy 6-32 Private Sector Green Building Policy

Council Policy 6-32 Private Sector Green Building Policy, adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for implementing these standards. It promotes practices in building design, construction, and maintenance that reduce energy, water and other resource use.

4.6.4 Impact Discussion

a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

(**Less than Significant**)

Energy impacts are assessed based on the proposed project energy demand profile and on its relationship to the state's energy efficiency regulations and San José's land use planning regulations. Both are summarized below.

Existing Energy Demand

The existing homes on the project site consume energy in the form of electricity, natural gas, and residents' vehicles that consume transportation fuel. A summary of existing energy demand is provided below.

Electricity. Section 5.3, Energy by Land Use – Electricity, in the CalEEMod results included in Appendix B shows existing electricity demand of about 24,272 kilowatt-hour (kWh) per year.

Natural Gas. Section 5.2, Energy by Land Use – Natural Gas, in the CalEEMod results included in Appendix B show that the natural gas demand from existing uses would be about 87,195,000 British Thermal Unit (BTU) per year or 872 therms per year (1 therm = 100,000 BTU).

Transportation Fuel. Existing uses generate traffic trips. Vehicle trips can be translated into vehicle miles traveled (VMT) for the purpose of projecting transportation fuel demand. CalEEMod results included in Appendix B show that the estimated existing annual VMT would be 65,458 miles. The 2017 Emissions Factor Model (EMFAC) version 1.0.2, which uses VMT as an input, was used to estimate existing transportation fuel use. The EMFAC results included as Appendix D show existing transportation fuel demand of about 2,747 gallons per year.

Projected Energy Demand

The proposed project would result in increased demand for electricity, natural gas and fuel. A summary of projected energy demand is provided below.

Electricity. According to the California Energy Commission Energy Consumption Data Management System (2020a), in 2018, total electricity consumption in Santa Clara County was 16,708,080,341 kWh. Section 5.3, Energy by Land Use – Electricity, in the CalEEMod results included in Appendix B show projected electricity demand would be approximately 715,398 kWh per year. Projected electricity demand would be less than 0.01 percent of the total 2018 Santa Clara County electricity demand. The projected electricity demand exceeds that of the existing uses by 691,126 kWh per year, or 2,847.42 percent.

Natural Gas. According to the California Energy Commission Energy Consumption Data Management System (2020b), in 2018, total natural gas consumption in Santa Clara County was 440,030,822 therms. Section 5.2, Energy by Land Use – Natural Gas, in the CalEEMod results included in Appendix B show that projected natural gas demand would be about 665,239,000 BTU per year or 6,654 therms per year. Projected natural gas demand would be less than 0.01 percent of the total 2018 Santa Clara County natural gas demand. The projected natural gas demand exceeds that of the existing uses by 578,044,000 BTU per year or 5,782 therms per year, or 663.07 percent.

Transportation Fuel. The proposed project would generate new traffic trips that would increase VMT. New vehicle trips would result in increased demand for and consumption of transportation fuel. CalEEMod results included in Appendix B show that the projected annual VMT would be 1,221,149 miles. EMFAC was used to forecast annual transportation fuel use based on the projected VMT. The EMFAC results in Appendix D show projected transportation fuel demand of about 46,937 gallons per year. The projected transportation fuel demand exceeds that of the existing uses by 44,190 gallons per year, or 1,608.66 percent.

Conclusion

A proposed project could be considered to result in significant environmental effects due to wasteful, inefficient, or unnecessary consumption of energy if its energy demand is extraordinary relative to common land use types, its gross energy demand is excessive relative to total demand in Santa Clara County and/or it fails to comply with California energy efficiency/conservation regulations that are within the applicant's control.

The proposed project is a redevelopment, infill, high-efficiency, mixed-use development in an urban environment with a diversity of complementary land uses and frequent transit services resulting in low VMT, and therefore, low transportation fuel demand.

The project is a common land use type whose electricity and natural gas demand would not be excessive. As presented above, projected electricity and natural gas demand would not be excessive relative to cumulative electricity and natural gas demand in Santa Clara County. Further, the City of San José enforces the California Building Standards Code through the development review process. That enforcement is the primary mechanism through which the applicant would be required to implement energy efficiency/conservation measures. Required conformance with the Council Policy 6-32 green building requirements would also result in energy reduction benefits.

The proposed project would consume energy, but it would not be inefficient, wasteful, or unnecessary. Therefore, the impact would be less than significant.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

(**No Impact**)

As discussed in Regulatory Setting above, there are no regulations at the state or local level that would mandate that the proposed project must include on-site renewable energy sources. The California Building Standards Code would require the proposed project to be built to the BEES in effect at the time the building permit is issued. At the local level, the residential component of the project is required to be LEED Certified pursuant to Council Policy 6-32.

By incorporating energy efficient measures per the BEES and including green building design measures to achieve LEED certification, the project would comply with existing State and local energy standards and would not conflict with or obstruct a state or local plan for energy efficiency.

4.7 GEOLOGY AND SOILS

4.7.1 Geology/Soils Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	☐	☐	☐	☒	1,4,9,10, 30
2. Strong seismic ground shaking?	☐	☐	☒	☐	1,4,9,10, 30
3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	1,4,9,10, 30
4. Landslides?	☐	☐	☐	☒	1,4,9,10, 30
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	1,4,9,10
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐	1,4,9,10, 30
d) Be located on expansive soil, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐	1,4,9,10, 30
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1,4,9
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐	1,4,9,10

4.7.2 Environmental Setting

Seismicity

The San Francisco Bay area is one of the most seismically active areas in Santa Clara County. The major earthquake faults in the region are the San Andreas, located near the Santa Cruz Mountains, and the Hayward and Calaveras fault system, located in the Diablo Mountain Ranges. Other potentially active faults within the City include the Berryessa, Crosley, Clayton, Quimby, Shannon, Evergreen, and Silver Creek faults (City of San José 2011).

The project site is not located within an Alquist-Priolo Earthquake Fault Zone. The nearest active faults to the project site are the Hayward Fault located 11 miles northeast, the Calaveras Fault located 13 miles east, and the San Andreas Fault located 9 miles southwest (City of San José 2018).

Liquefaction and Lateral Spreading

Seismic activity can also result in hazards from ground failure, such as liquefaction and lateral spreading. The majority of San José is located within the Santa Clara Valley, which is a broad alluvial plain with alluvial soils extending several hundred feet below the ground surface. During strong seismic shaking, loose, saturated sand and silt layers can soften, resulting in substantial ground deformation. Factors that influence liquefaction potential include geologic age of a soil deposit, soil type, soil cohesion, and ground water level. Along active stream channels, liquefaction susceptibility is typically high (City of San José 2011, p. 504).

Lateral spreading is a type of ground failure that can occur where an open slope face is present. It typically occurs as a form of horizontal displacement of relatively flat-lying material toward an open face such as an excavation (either temporary or permanent), channel, or body of water. This movement is generally due to failure along a weak plane in soils and may be associated with liquefaction. Areas of the City that are most prone to lateral spreading include lands are adjacent to the Guadalupe River and Coyote Creek, where liquefaction probability is greatest and in the marshland deposits of northernmost parts of the City (City of San José 2011, p. 504).

The project site is not located along stream channels, the nearest being the Los Gatos Creek located approximately two miles southeast of the site, and the San Tomas Aquino Creek, located approximately one mile west of the project site. The project site is also not identified as being within a liquefaction hazard zone according to Figure 3.6-1 of the General Plan EIR (City of San José 2011).

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. Most landslide activity has occurred in the Diablo Range on the east side of the City with lesser amounts in the Santa Teresa Hills and Santa Cruz Mountains to the southwest (City of San José 2011, p. 498). In hillside areas and along creeks, earthquakes can trigger landslides. Hazard areas extend into developable areas of the City at the edge of the East Foothills, in the Silver Creek Hills, the northern tip of the Santa Teresa Hills, and locations at the edge of the Almaden Valley. Figure 3.6-1 of the General Plan EIR illustrated areas considered susceptible to earthquake-induced landslides (City of San José 2011). The project site is flat and not located in a landslide hazard area (City of San José 2011, Figure 3.6-1).

Expansive and Weak Soils

Expansive soils have a high shrink-swell potential and occur where a sufficient percentage of certain clay materials are present in the soil. These soil conditions can impact the structural integrity of buildings and other structures. Much of the soil in the City is moderately to highly expansive. Moderately to highly expansive soils are found both on the valley floor and in hillside areas. Expansive soils on sloping hillsides are subject to soil creep, which can induce lateral forces on foundations and retaining walls (City of San José 2011, p. 498).

According to a City-adopted 2018 initial study and mitigated negative declaration prepared for a previous project on a portion of the current project site, soils on the eastern half of the project site are comprised of the Urban land-Elpaloalto complex, which consists of 70 percent urban land (disturbed and human transported material), 23 percent Elpaloalto soils and seven percent hangerone and still soils. The Elpaloalto soils onsite consists of decomposed plant material at the surface, clay loam from approximately 0.5 feet to 1.5 feet below ground surface, and silty clay loam from 1.5 feet to approximately eight feet below ground surface. Hangerone and still soils are made up of clay and clay loam (City of San José 2018, p. 62). The western portion of the project site was included into the now-proposed project and includes the same soils throughout the entire project site (Essel Environmental Engineering & Consulting 2020, p. 9).

Expansive near-surface soils are subject to volume changes during seasonal fluctuations in moisture content, which may cause movement and cracking of foundations, pavements, slabs, and below grade walls. The project site is underlain by soils that have a low to moderate expansion potential from approximately 0.5 feet to eight feet below ground surface. (City of San José 2018, p. 62).

Erosion

Erosion typically occurs when bare soils are exposed to water or wind. Erosion can occur as a result of rainfall in areas where construction activities have exposed soils and bedrock. In San José, erosion occurs primarily from the concentration of water generated on hillsides where erosion potential is high to very high. In addition to erosion of hillsides, erosion occurs in stream and creek beds and banks during high flow periods (City of San José 2011, p. 500).

Paleontological Resources

Paleontologic resources include fossils – the remains or traces of once-living organisms preserved in sediments or sedimentary rocks – and the geologic context in which they occur (City of San José 2011, p. 675). Paleontologic sensitivity is defined as the potential for a geologic unit to produce scientifically significant fossils. This is determined by rock type, past history of the rock unit in producing significant fossils, and fossil localities that are recorded from that unit. Paleontologic sensitivity is derived from the fossil data collected from the entire geologic unit, not just from a specific survey. Potentially sensitive areas for the presence of paleontological resources within the City are identified on Figure 3.11-1 in the General Plan EIR, based on the underlying geologic formation. Areas with the highest sensitivity are those where geologic formations known to contain fossils are found close to the ground surface (City of San José 2011, p. 676). According to Figure 3.11-1, the project site is located within an area of high sensitivity below ground level (City of San José 2011).

4.7.3 Regulatory Setting

State

Alquist-Priolo Act

The Alquist-Priolo Earthquake Fault Zoning Act was enacted in 1972 in the aftermath of the San Fernando earthquake. The Alquist-Priolo Act prohibits the siting of most structures for human occupancy across traces of active faults that constitute a potential hazard to structures from surface faulting or fault creep. Single family homes that are not part of a development project of four or

more units are exempt. Under the Alquist-Priolo Act the State Geologist establishes earthquake fault regulatory zones and issues maps identifying those zones. Alquist-Priolo Zones are mapped on the eastern portions of the City boundaries, east of Highway 101.

Seismic Hazards Mapping Act

Under the Seismic Hazards Mapping Act the state designates seismic hazard zones to protect from the effects of strong ground shaking, earthquake- induced landslides, liquefaction, or other ground failures associated with seismic activity.

California Building Code

Every three years the California Building Standards Commission adopts an updated version of the building codes. The building codes are based on national model codes, amended by the State as the California Building Code, and often further amended by local jurisdictions. The 2016 California Building Standards Code (Cal. Code Regs., Title 24), the current version of the code, was published on July 1, 2019, with an effective date of January 1, 2020.

Local

Envision San José 2040 General Plan

The General Plan includes updated hazards policies that address geologic and seismic hazards. The following policies are specific to geological resources and apply to the proposed project (City of San José 2011):

> **Policy EC-3.1** All new or remodeled habitable structures shall be designed in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
>
> **Policy EC-4.1** All new or remodeled habitable structures shall be designed and built in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
>
> **Policy EC-4.2** Development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
>
> **Policy EC-4.4** All new development shall conform to the City of San José's Geologic Hazard Ordinance.
>
> **Policy EC-4.5** Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre

or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Action EC-4.11 Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12 Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works

Policy ES-4.9 Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code – Title 24

Title 24 of the City's Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

4.7.4 Impact Discussion

a.1) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?

a.2) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?

a.3) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?

a.4) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?

(Less Than Significant)

Fault Rupture. The project site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone and, therefore, fault rupture at the project site is not anticipated (City of San José 2018).

Seismic Ground Shaking. Due to the San Francisco Bay area being one of the most seismically active areas in Santa Clara County, it is likely that the project site would experience ground shaking as a result of an earthquake. The project developer would be required to design the proposed building to meet current California Building Code standards in order to reduce the potential for substantial adverse effects related to ground shaking.

Seismic-related Liquefaction. The project site is not located within a State of California or County of Santa Clara Liquefaction Hazard Zone (City of San José 2011). As a result, the potential for liquefaction to occur onsite and in the project area during a seismic event is low.

Landslides. The project area is flat and is not located within a Landslide Hazard Zone (City of San José 2011)**.**

Given that the project site is located within a seismically active region, the following standard permit conditions are required to be implemented to reduce seismic-related impacts to a less-than-significant level.

Standard Permit Conditions

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

b) Result in substantial soil erosion or the loss of topsoil?

(**Less Than Significant**)

The 0.44-acre project site is currently developed and the project site includes impervious surfaces. Ground disturbance would be required for the demolition of the existing buildings and hardscape, grading, and construction of the proposed development. Ground disturbance

could expose soils and increase the potential for wind- or water-related erosion and sedimentation at the project site until construction is complete. Implementation of the standard permit conditions addressing erosion presented in Section 4.10, Hydrology and Water Quality, would ensure erosion impacts are less than significant.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

(**Less Than Significant**)

The project site is not near an open face or waterway where lateral spreading could occur; therefore, the potential for lateral spreading to affect the project site is low. However, to ensure that the proposed project would be located on stable soil and reduce the risk of on- or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse, implementation of the standard permit conditions presented in checklist question a) would reduce impacts to a less-than-significant level.

d) Be located on expansive soil, creating substantial direct or indirect risks to life or property?

(**Less than Significant**)

According to a web soil survey conducted for the project site (City of San José 2018), the project site consists of soils that have low to moderate expansion potential, which is considered a significant impact. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as described in the standard permit condition identified above in checklist question a). This would reduce impacts to a less-than-significant level.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

(**No Impact**)

All sewage generated within the San José Water Company's service area, which includes the project site, is sent to the San José/Santa Clara Regional Wastewater Facility via the City and West Valley Sanitation District collection systems (San José Water Company 2016, p. 6-3). The proposed project would connect into the existing 6-inch sanitary sewer line that wraps around the project site within the public rights-of way S. Redwood Avenue, Hemlock Avenue, and S. Baywood Avenue. There would be no septic tanks or alternative wastewater disposal systems.

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

(**Less than Significant**)

The project site is currently developed and, therefore, there are no unique geologic features within the project site. Therefore, the proposed project would not have an impact on a unique geological feature.

According to Figure 3.11-1 of the General Plan EIR, the project site is located within an area of high sensitivity at depth (City of San José 2011). Therefore, it is possible that paleontological resources could be discovered during development of the proposed project. Disturbance of paleontological resources would be considered a significant impact. Implementation of the following standard permit condition would reduce impacts to paleontological resources to a less-than-significant level.

Standard Permit Condition

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Greenhouse Gas Emissions Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1, 35, 36, 41, 42, 43, 44, 45, 46, 64
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒	1, 35, 36, 41, 42, 43, 44, 45, 46

4.8.2 Environmental Setting

Causes and Effects of Climate Change

The greenhouse effect naturally regulates the Earth's temperature. However, human activity has increased the intensity of the greenhouse effect by releasing increasing amounts of greenhouse gases (GHG) emissions into the atmosphere. GHGs can remain in the atmosphere for decades or even hundreds of thousands of years (depending on the particular GHG). The GHG emissions that are already in the atmosphere will continue to cause climate change for years to come, just as the warming being experienced now is the result of emissions produced in the past.

Increased concentrations of GHGs in the atmosphere result in increased air, surface, and ocean temperatures. Many of the effects and impacts of climate change stem from resulting changes in temperature and meteorological responses to those changes. Effects of climate change include, but are not limited to: reduced snowpack, more frequent and extreme storm events, sea level rise, reduced water supply availability, diminished air quality, increased wildfire hazards, increased public health concerns, and ecosystem changes.

Greenhouse Gas Types

GHGs are emitted by natural processes and human activities. The human-produced GHGs most responsible for global warming are carbon dioxide, methane, nitrous oxide, and chlorofluorocarbons. In 2018, GHG emissions in the United States consisted of 81 percent of carbon dioxide, 10 percent of methane, 7 percent of nitrous oxide, and 3 percent of chlorofluorocarbons (United States Environmental Protection Agency 2020). While carbon dioxide represents the vast majority of the total volume of GHGs released into the atmosphere, the release of even small quantities of other types of GHGs can be significant for their contribution to climate change.

4.8.3 Regulatory Setting

The federal government has taken significant regulatory steps toward addressing climate change. Generally, California policy and regulations implemented at the regional and local levels are as or

more comprehensive and stringent than federal actions; therefore, this section focuses on state, regional, and local regulatory actions whose implementation would lessen the contribution of the proposed project to climate change.

State

Assembly Bill 32

In September 2006, the California State Legislature enacted the California Global Warming Solutions Act of 2006, also known as AB 32. AB 32 requires that statewide GHG emissions be reduced to 1990 levels by 2020.

Senate Bill 32

Effective January 1, 2017, SB 32 requires California to reduce its statewide GHG emissions by the year 2030 so that they are 40 percent below those that occurred in 1990.

California Renewables Portfolio Standard

In 2015, the Legislature enacted SB 350, which embodies a policy encouraging a substantial increase in the use of electric vehicles and increased the Renewable Portfolio Standard to require 50 percent of electricity generated to be from renewables by 2030.

On September 10, 2018, former Governor Brown signed into law SB 100 and Executive Order B-55-18. SB 100 raises California's Renewable Portfolio Standard requirement to 50 percent renewable resources target by December 31, 2026, and to achieve a 60 percent target by December 31, 2030. SB 100 also requires that retail sellers and local publicly owned electric utilities procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatt hours of those products sold to their retail end-use customers achieve 44 percent of retail sales by December 31, 2024, 52 percent by December 31, 2027, and 60 percent by December 31, 2030. Executive Order B-55-18 establishes a carbon neutrality goal for California by 2045; and sets a goal to maintain net negative emissions thereafter.

Assembly Bill 1493, Pavley Clean Cars Standards

In July 2002, the Legislature enacted AB 1493 (Pavley Bill), which requires the maximum feasible reduction of GHGs emitted by passenger vehicles and light-duty trucks beginning with model year 2009. In September 2009, CARB adopted amendments to the Pavley standards to reduce GHG emissions from new motor vehicles through the 2016 model year. These regulations created what are commonly known as the "Pavley II standards."

Advanced Clean Cars

In January 2012, CARB adopted an Advanced Clean Cars program aimed at reducing both smog-causing pollutants and GHG emissions for vehicles model years 2017-2025. The regulations focus on substantially increasing the number of plug-in hybrid cars and zero-emission vehicles in the vehicle fleet and on making fuels such as electricity and hydrogen readily available for these vehicle technologies. It is expected that the Advanced Clean Car regulations will reduce GHG emissions from California passenger vehicles by about 34 percent below 2016 levels by 2025, all while improving fuel efficiency and reducing motorists' costs.

Senate Bill 375, Sustainable Communities Strategy

SB 375, signed in August 2008, requires sustainable community strategies to be included in regional transportation plans to reduce emissions of GHGs. In 2013, the San Francisco Bay Metropolitan Transportation Commission and the Association of Bay Area Governments jointly approved Plan Bay Area, which includes the region's Sustainable Communities Strategy and the 2040 Regional Transportation Plan. Plan Bay Area includes a target of reducing GHGs to seven percent below 2005 emissions levels by 2020, and 15 percent below 2005 levels by 2035.

California Energy Code

The California Energy Code (California Code of Regulations, Title 24, Part 6), which is incorporated into the California Building Standards Code, was first established in 1978 in response to a legislative mandate to reduce California's energy consumption. The California Energy Code is updated every three years by the California Energy Commission as the BEES to allow consideration and possible incorporation of new energy efficiency technologies and construction methods. The current 2019 BEES went into effect on January 1, 2020. Residential and non-residential buildings permitted after January 1, 2020 are required to comply with the 2019 BEES. The 2019 BEES are structured to achieve the state's goal that all new low-rise residential buildings (single-family homes) be zero net energy. Multi-family homes and non-residential buildings will use about 30 percent less energy compared to the 2016 BEES (California Energy Commission 2018).

California Green Building Standards Code

The purpose of the California Green Building Standards, which became effective on January 1, 2011, is to improve building design and construction to reduce negative environmental impacts through sustainable construction practices. The 2019 California Green Building Standards instituted mandatory and voluntary environmental performance standards for all ground-up new construction of commercial, low-rise residential uses, and state-owned buildings, as well as schools and hospitals.

Regional

Bay Area Air Quality Management District

The 2017 CEQA Guidelines include guidance on evaluating, determining significance of, and mitigating GHG impacts of projects and plans. The 2017 CEQA Guidelines include thresholds of significance that are based on AB 32 GHG emission reduction goals for the year 2020. The proposed project is expected to be operational by 2023. Therefore, BAAQMD's thresholds do not address GHG emissions reductions needed after 2020 to keep statewide emissions on a path toward meeting the 2030 SB 32 emissions reduction target.

The 2017 CAP defines a vision for achieving ambitious GHG reduction targets for 2030 and 2050, and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve those GHG reduction targets. There are 85 control measures designed to decrease emissions of air pollutants and GHGs. The control measures that address GHG emissions include TR1: Clean Air Teleworking Initiative; TR 2: Trip Reduction Programs; TR19: Medium and Heavy-Duty Trucks; TR 22: Construction, Freight, and Farming Equipment; BL1: Green Buildings; BL2: Decarbonize Buildings; BL4: Urban Heat Island Mitigation; and SL1: Short-Lived Climate Pollutants.

Local

Climate Smart Program

Climate Smart San José, adopted by the City Council in 2018, lays out how it's doing its part to address climate change. It's a communitywide initiative to reduce air pollution, save water and improve quality of life. Climate Smart San José is one of the first detailed City plans for reaching the targets of the international Paris Agreement. To get there, Climate Smart sets ambitious goals for energy, water, transportation and local jobs.

Envision San José 2040 General Plan

The General Plan includes the following policies related to GHG emissions that are applicable to the proposed project:

> **Policy MS-1.2** Continually increase the number and proportion of building within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
>
> **Policy MS-2.3** Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.
>
> **Policy MS-2.11** Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
>
> **Policy MS-5.5** Maximize recycling and composting from all residents, businesses, and institutions in the City.
>
> **Policy MS-6.8** Maximize reuse, recycling, and composting citywide.
>
> **Policy MS-14.4** Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
>
> **Policy LU-5.4** Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
>
> **Policy TR-2.18** Provide bicycle storage facilities as identified in the Bicycle Master Plan.

Policy CD-2.5 Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.

Policy CD-3.3 Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Policy CD-5.1 Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

City of San José Municipal Code

The City of San José Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Ordinance (Chapter 17.84);
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10);
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105);
- Construction and Demolition Diversion Deposit Program (Chapter 9.10); and
- Wood Burning Ordinance (Chapter 9.10).

GHG Reduction Strategy

The City of San José prepared a GHG Reduction Strategy to ensure that implementation of the General Plan aligns with AB 32. The strategy was adopted by the City Council on November 1, 2011 as an appendix to the General Plan; it was updated in December 2015.

The GHG Reduction Strategy identifies three categories of GHG reduction measures to be implemented by development projects: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects, while others are voluntary. Voluntary measures can be incorporated as mitigation measures for proposed projects at the City's discretion.

The City has updated the GHG Reduction Strategy to include strategies that align with the SB 32 emissions reduction target of 40 percent below 1990 levels by 2030. The updated GHG Reduction Strategy will serve as a qualified Climate Action Plan for purposes of tiering under CEQA.

Council Policy 6-32 Private Sector Green Building Policy

In October 2008, the City adopted Private Sector Green Building Policy 6-32, which identifies baseline green building standards for new private construction and provides a framework for implementing these standards. This policy requires that qualifying projects achieve minimum green building performance levels using the Council adopted standards.

4.8.4 Impact Discussion

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

(**Less than Significant**)

There are no current local or regional plans for reducing GHG emissions that are applicable to the proposed project. To determine how the proposed project would perform in terms of meeting GHG emissions reductions expectations, a project buildout year interim progress threshold of significance for 2023 has been developed as has a year 2030 threshold. The 2030 threshold is based on the statewide GHG reduction goal of 40 percent below the baseline year of 1990 as codified in SB 32. The significance of project GHG impacts is determined based on its consistency with the 2030 threshold of significance. The interim "progress" threshold and the 2030 threshold are discussed below.

The interim progress threshold identifies the rate of emissions per service population for the project operational year of 2023 at which the project would be consistent with the statewide emissions trajectory required to achieve the 2030 SB 32 emissions target. The threshold is the year 2023 ratio of total statewide GHG emissions to statewide service population, where service population is the sum of the number of jobs and the number of residents.

CARB stated in the *First Update to the Climate Change Scoping Plan* that an average statewide GHG reduction of 5.2 percent per year from the projected statewide year 2020 GHG emissions inventory volume will be needed to stay on a trajectory to achieve state reduction targets for 2030. The first step in deriving a 2023 threshold for the project is to determine the projected volume of statewide GHG emissions from land use driven sectors in 2024 (anticipated project buildout year). Table 8, 2020 California Greenhouse Gas Inventory for Land Use Driven Emissions, shows the 2020 state emissions inventory for land use driven GHG emissions. Total land use driven emissions are projected at 286.70 million metric tons (MMT) CO_2e.

Applying CARB's 5.2 percent annual emissions reduction rate to the 2020 projected state inventory volume of 286.70 MMT CO_2e for three consecutive years yields an emissions volume of 244.26 MMT CO_2e in 2023 that must be achieved statewide. The 2023 service population is the sum of the projected statewide 2023 population and projected statewide 2023 employment. The projected 2023 population is 40,716,512 (California Department of Finance 2020a). The California Employment Development Department, California Occupational Employment Projections 2018-2028, show that the 2028 employment projection is 20,412,500 jobs (California Employment Development Department 2020). Projected 2023 employment is equivalent to 20,412,500 jobs minus the annual average rate of employment during the period 2018 to 2028, which equals 158,660 jobs per year or 793,300 for the five-year period 2023 to 2028. Therefore, 2023 employment is estimated at 19,619,200 jobs.

Table 8 2020 California Greenhouse Gas Inventory for Land Use Driven Emissions

Land Use Type	Emissions (MMT CO_2e)
On-Road Transportation	
Passenger Cars	63.77
Light Duty Trucks	44.75
Motorcycles	0.43
Heavy Duty Trucks	29.03
Freight	0.02
Subtotal	138.00
Electricity Generation In-State	
Commercial Cogeneration	0.70
Merchant Owned	2.33
Transmission and Distribution	1.56
Utility Owned	29.92
Subtotal	34.51
Electricity Generation In-State	
Specified Imports	29.61
Transmission and Distribution	1.02
Unspecified Imports	30.96
Subtotal	61.59
Commercial	
CHP: Commercial	0.40
Communication	0.07
Domestic Utilities	0.34
Education	1.42
Food Services	1.89
Healthcare	1.32
Hotels	0.67
Not Specified Commercial	5.58
Offices	1.46
Retail & Wholesale	0.68
Transportation Services	0.03
Subtotal	13.86
Residential	
Household Use	29.66
Subtotal	29.66
Industrial	
Landfills	6.26
Domestic Wastewater Treatment	2.83
Subtotal	9.09

Land Use Type	Emissions (MMT CO_2e)
Total Emissions	286.70

SOURCE: CARB. No date

The 2023 service population is 40,716,512 (population) plus 19,619,200 (jobs), for a total of 60,335,712. Therefore, the interim progress 2023 GHG efficiency threshold is 244.26 MMT CO_2e/60,335,712 or 4.05 MT CO_2e per year per service population.

The 2030 threshold of significance is also an efficiency threshold. It represents the emissions per service population below which the proposed project would have a less than significant impact. The threshold reflects emissions reductions needed from land use projects statewide to support reducing statewide GHG emissions from all sources to 40 percent below 1990 levels by 2030. The Association of Environmental Professionals' *Final White Paper - Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California,* includes analysis that concludes that an emissions rate of 2.6 MT CO_2e/per year per service population would be appropriate for this purpose. This value is used as the threshold of significance in this analysis on which the impact significance determination is made for the proposed project.

The existing homes on the project site generate mobile-, area-, energy-, water-, and waste-source GHG emissions. The proposed project would generate GHG emissions during its construction and operation. Construction GHG emissions would be generated by equipment used during demolition, site preparation, grading, trenching, paving, building construction, and architectural coating. Operational GHG emissions would be generated primarily by vehicle trips of residents and employees accessing the project site. Other sources of operational GHG emissions include use of electricity and natural gas on site, from diesel-powered stationary equipment, use of electricity to pump water supply and treat wastewater, and from decomposition of solid waste generated by project residents and employees.

GHG emissions from project construction, project operations, and baseline conditions have been estimated using CalEEMod. CalEEMod also estimates the changes in the carbon sequestration potential of the project site based on the net number of new trees that would be planted as part of the proposed project. Refer to Appendix B for the CalEEMod modeling results and a memorandum describing the CalEEMod modeling assumptions and methodology, *Baywood Mixed-Use Project – Criteria Air Pollutant and GHG Emissions Modeling Assessment*.

Construction Emissions. Construction activity would generate a total of 1,463.17 MT CO_2e of unmitigated GHG emissions. An annual emissions volume is obtained by amortizing construction GHG emissions over a 30-year time period. Annual amortized construction emissions would be approximately 48.77 MT CO_2e (1,463.17 MT CO_2e / 30 years).

Operational Emissions. The proposed project would generate an estimated 645.26 MT CO_2e of annual emissions during operations. This emissions volume includes reductions from required compliance with State requirements for the Model Water Efficient Landscape Ordinance and 2019 BEES.

Carbon Sequestration Potential. The model estimates the net gain in carbon sequestration potential as 37.52 MT CO_2e over the lifetime of the project. Averaged over a 30-year lifetime, the annual gain in carbon sequestration potential would be equivalent to 37.52 MT CO_2e / 30 years or 1.25 MT CO_2e per year.

Baseline Emissions. Baseline (existing) uses generate approximately 38.15 MT CO_2e of GHG emissions annually.

Service Population. The project service population is the sum of the new population and employment it generates.

The City's housing stock has an average of 3.19 persons per household in 2020 (California Department of Finance 2020b). With 79 dwelling units and an average of 3.19 persons per household, the proposed project could generate an estimated 252 new residents.

According to the *2017 CMP Monitoring and Conformance Report* prepared by the Santa Clara Valley Transportation Authority, the estimated job density (jobs per 1,000 square feet) for an office use is 3.4. With 9,820 square feet of office space, the proposed project would generate an estimated 33 new employees (9,820 square feet of office space x 3.4 jobs / 1,000 square feet).

Therefore, the service population is 285 (252 residents + 33 employees).

GHG Emissions Attributable to the Proposed Project. Table 9, Project Greenhouse Gas Emissions Summary, summarizes the GHG emissions attributable to the proposed project in its first operational year of 2023 and indicates whether the emissions are consistent with 2030 threshold of significance.

Table 9 Project Greenhouse Gas Emissions Summary

Emission Source	Annual GHG Emissions[1]
Amortized Construction	48.77
Operational	645.26
Carbon Sequestration Potential (gain)	<1.25>[2]
Baseline	<38.15>[2]
Net GHG Emissions	654.63
Service Population	285
GHG Emissions Per Service Population	2.30
2030 Threshold of Significance	2030 Threshold 2.6
Project Emissions Exceed Threshold?	No

SOURCES: EMC Planning Group 2020a.
NOTES:
1. Expressed in MT CO_2e per year.
2. <Brackets> indicate deductions.

Conclusion. Table 9 shows that the proposed project would generate approximately 2.30 MT CO_2e per year per service population (654.63 MT CO_2e per year / 285 service population). This is below the 2030 threshold of 2.6 MT CO_2e per year per service population. Therefore, the proposed project would not generate GHG emissions that would have a significant impact on the environment. This impact is less than significant. No mitigation is required.

It is possible that the 2023 emissions volume of 2.30 MT CO_2e for the project could decline over time for a variety of reasons. For example, mobile source emissions could decline with greater resident use of electric vehicles, increased fuel efficiency and/or lower carbon fuel standards promulgated by the state, improved access to and use of transit or other alternative transportation modes, etc.

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

(**No Impact**)

There are no current local or regional plans for reducing GHG emissions that are applicable to the proposed project. SB 32 is considered to be the plan for reducing GHG emissions that is applicable to the proposed project. The GHG threshold of significance derived for the project is based on the rate of project emissions below which the project would not impede attainment of the SB 32 statewide emissions reduction goal for 2030. Since project emissions are below the threshold of significance (see "a" above), the proposed project would not conflict with SB 32 emissions reduction goals.

4.9 HAZARDS AND HAZARDOUS MATERIALS

4.9.1 Hazards and Hazardous Materials Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	1
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐	1,31
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	1,9,10
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?	☐	☐	☐	☒	1,14,15, 50
e) For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or a public-use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐	1,8,9,10, 58
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒	1,4

4.9.2 Environmental Setting

The information used within this section of the initial study is sourced from the *Phase I Environmental Site Assessment* (environmental site assessment) prepared for the project site in June 2018 by AEI Consultants. The full environmental site assessment can be found in Appendix E.

Historic and Current Uses of the Site and Surrounding Areas

According to the environmental site assessment, the project site was historically used for agricultural purposes (from approximately 1939-1945). Aerial photographs indicate that residential development occurred on the project site around 1948 and has stayed in residential use since that

time. The project site is surrounded by residential and commercial uses to the north, commercial uses to the east, a four-story multi-family development and parking lot to the south, and one-story residences to the west.

On-site Contamination

As previously indicated, the project site was historically used for agricultural purposes and, therefore, there is potential that agricultural chemicals were used onsite (AEI Consultants 2018, p. 14). The environmental site assessment determined that the residences on the project site were previously connected to septic systems that were removed/abated in 1970 and 1990. However, at present, the residences connect into the City's sanitary sewer system. Based on the historic septic systems only being used for residential purposes only, and the removal/abatement occurring more than 27 years ago, the former septic systems are not expected to represent a significant environmental concern (AEI Consultants 2018, p. 18). However, due to the age of the existing onsite structures, there is potential that asbestos-containing building materials and lead-based paint are present (AEI Consultants 2018, p. 27 and p. 29, respectively).

There are no oil and gas wells or pipelines within 500 feet of the property and of the handful of agencies' databases searched, there were no records on file that indicate current or previous reports of hazardous use, storage, and/or unauthorized releases that may have impacted the property (AEI Consultants 2018, p. 19).

Based on a review of available resources as documented in the environmental site assessment, significant on-site concerns and/or regulated listings from nearby sites, which suggest that a vapor-phase migration concern currently exists at the subject property, were not identified (AEI Consultants 2018, p. 21).

Airports

The closest airport to the project site is the Norman Y. Mineta San José International Airport, which is located approximately 2.5 miles northeast of the project site. The site is not located within the airport influence area nor the safety zones designated by the CLUP. The proposed building height exceeds the Federal Aviation Regulations Part 77 notification surface for San Jose International and therefore would be required to file with the Federal Aviation Administration for an airspace safety review prior to City approval of construction.

4.9.3 Regulatory Setting

Federal

United States Environmental Protection Agency

The United States Environmental Protection Agency (EPA) was created in 1970 to serve as a single-source collection of all federal research, monitoring, standard-setting, and enforcement activities to make sure there is appropriate protection of the environment. The EPA's duty is to create and enforce regulations that protect the natural environment and apply the laws passed by Congress. The EPA is also accountable for establishing national criteria for various environmental programs and enforcing compliance.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act enacted in 1976 governs the disposal of solid waste and hazardous materials. The Resource Conservation and Recovery Act gives the EPA the power to control the generation, transportation, treatment, storage, and disposal of hazardous substances that cannot be disposed of in ordinary landfills. It also allows for each state to apply their own hazardous waste programs instead of implementing the federal program on the condition that the state's program is just as strict in its requirements. This state program must be permitted by the EPA in order to be used.

Occupational Safety Health Administration

The Occupational Safety Health Administration (OSHA) provides safe and healthy working environments for employers and employees in the form of an enforced list of standards as well as training, outreach, education, and assistance from the public. This list of enforced standards are listed in 29 CFR Chapter 29, Sections 1910 (General Industry) and 1926 (Construction). These standards call out the preparation of Health and Safety Plans that determine possible hazards connected to a proposed land use and may offer applicable implementation of mitigation measures.

Federal Aviation Administration

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways. As previously indicated, the proposed project would be required to file with the Federal Aviation Administration for an airspace safety review prior to City approval of construction.

State

California Environmental Protection Agency

The California Environmental Protection Agency (Cal/EPA) was established in 1991 and is comprised of: the California Air Resources Board, the State Water Resources Control Board, the Regional Water Quality Control Board, CalRecycle, the Department of Toxic Substances Control, the Office of Environmental Health Hazard Assessment, and the Department of Pesticide Regulation. This integrated group amalgamates all of California's environmental authority agencies into one and has led the state of California in developing and applying numerous progressive environmental policies in America. The primary goal of the Cal/EPA is to restore, protect, and enhance the environment.

Cortese List

The Cortese list was authorized by the state legislature in 1985. A list of several types of hazardous materials is gathered by a few agencies as directed by the statute.

Government Code Section 65962.5. (a) The Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

1. All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.

2. All land designated as hazardous waste property or border zone property pursuant to Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

3. All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.

4. All sites listed pursuant to Section 25356 of the Health and Safety Code.

All sites included in the Abandoned Site Assessment Program. Government Code Section 65962.5. (c) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

1. All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

2. All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.

3. All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials.

The project site is not on the Hazardous Waste and Substances Sites (Cortese) List (California Department of Toxic Substances Control 2019).

California Department of Toxic Control

The California Department of Toxic Control, a department of the Cal/EPA, is the primary agency in California for regulating hazardous waste, cleaning up existing contamination, and finding ways to reduce the amount of hazardous waste produced in California. The California Department of Toxic Control regulates hazardous waste primarily under the authority of the Federal Resource Conservation and Recovery Act and the California Health and Safety Code (primarily Division 20, Chapters 6.5 through 10.6, and Title 22, Division 4.5). Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning.

California Office of Emergency Services

The California Office of Emergency Services was officially established in 1970. In 2013, it merged with the Office of Public Safety Communications where it is now operating as an agency that addresses the risks and threats to the public, property, economy, and environment. A broader mission of this office is to run multiple programs that assist the state's stakeholders and protect communities. One of the main responsibilities of the Office of Emergency Services is to regulate the statewide standards of hazardous materials. The office requires general information of how the hazardous materials are going to be handled, used, stored, or disposed of for the accessibility of public safety officers and regulatory agencies. The regulations are discussed in Chapter 6.95 of the California Health and Safety Code, Article 1, Hazardous Materials Release Response and Inventory Program and Article 2, Hazardous Materials Management.

California Occupational Safety and Health Administration

The California Occupational Safety and Health Administration (Cal/OSHA) is the main agency in control of the safety of workers regarding the handling and use of hazardous pollutants in the workplace. Generally, the State's regulations are much stricter than the federal regulations. A comparison of Cal/OSHA and Federal OSHA programs is provided within a fact sheet provided by the California Department of Industrial Relations.

California Environmental Protection Agency Unified Program

The Cal/EPA Unified Program protects the residents of California from hazardous waste and materials through conditions, permits, inspections, and implementations. The Unified Program consists of 81 certified local government agencies, acknowledged as the Certified United Program Agencies, which implement governing criteria generated by five different state agencies.

Hazardous Materials Transportation Regulations

The State of California has adopted the U.S. Department of Transportation regulations for the transporting of hazardous materials within the boundary of the State. All hazardous waste transporters in the State are required to register with the Department of Toxic Substances Control and shall meet all regulations put forth by: the California Highway Patrol, the California State Fire Marshal, and the United States Department of Transportation. Furthermore, the hazardous waste transporters are required to meet the regulations set forth in the California Code of Regulations (Division 20, Chapter 6.5, Article 6 and 13).

California Accidental Release Prevention Program

A California Accidental Release Prevention Program is a program that the owner or operator of a stationary source develops, which provides information such as regulated pollutants held on the site, what the magnitude is if there is an accidental release of the regulated pollutant, what the emergency response program is for the stationary source, and a hazard analysis. Additional information is required and can be found in the California Health and Safety Code, Chapter 6.95, Article 2, Sections 25531 to 25543.3. The idea behind this program is to offer data that could be helpful to first responders as they actively stop the release of a hazardous substance in the area that would threaten the lives of the public or the surrounding environment.

Local

Emergency Operations and Evacuation Plans

The City of San José's Emergency Operations Plan includes standard operating procedures for flood events, heat waves, off-airport aviation accidents, power outages, terrorism, and urban/wildland interface fires. The Citywide Emergency Evacuation Plan sets forth the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

Envision San José 2040 General Plan

The General Plan contains goals and policies which seek to mitigate potential impacts from hazards and hazardous materials in the City. Applicable goals and policies include:

> **Policy EC-6.6** Environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located must address the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
>
> **Policy EC-7.1** For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
>
> **Policy EC-7.2** Identification of existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users shall be provided as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
>
> **Policy EC-7.4** On redevelopment sites, the presence of hazardous building materials shall be determined during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
>
> **Policy EC-7.5** On development and redevelopment sites, all sources of imported fill shall have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
>
> **Policy EC-7.11** Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
>
> **Policy CD-5.8** Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.9.4 Impact Discussion

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

(**No Impact**)

The proposed project is a mixed-use residential/commercial development that that does not involve the routine transport, use, or disposal of hazardous materials or waste. The proposed development may use small quantities of miscellaneous household cleaning supplies and other chemicals but not to the amount that significant hazard to the public or environment would occur.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

(**Less Than Significant with Mitigation**)

The environmental site assessment identified some potential hazardous materials during the preparation of the environmental site assessment; they are listed below.

Agricultural Chemicals. The project site was historically used for agricultural purposes and on-site soils could contain agricultural chemicals. Construction of the proposed development could result in the exposure of construction workers and adjacent residences to hazardous levels of contaminated soil. The mitigation measures presented below would be required by the project developer and applicant.

Mitigation Measure

HAZ-1 Prior to the issuance of any demolition or grading permits, shallow soil samples shall be taken from the near surface soil and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial environmental screening levels. The result of soil sampling and testing shall be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

If contaminated soils are found in concentrations above established regulatory environmental screening levels, the project applicant shall enter into the Santa Clara County Department of Environmental Health's Voluntary Cleanup Program, or equivalent, to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant must remove contaminated soil to levels acceptable to the Santa Clara County Department of Environmental Health's Voluntary Cleanup Program (or equivalent oversight agency). The Santa Clara County Department of Environmental Health's Voluntary Cleanup Program (or equivalent oversight agency) may also approve leaving in-place some of the contaminated soil if the contaminated soil will be buried under

hardscape and/or several feet of clean soil. A Removal Action Plan, Soil Mitigation Plan or other similarly titled report describing the remediation must be prepared and implemented to document the removal and /or capping of contaminated soil. A copy of any reports prepared shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department. All work and reports produced shall be performed under the regulatory oversight and approval of the Santa Clara County Department of Environmental Health's Voluntary Cleanup Program (or equivalent oversight agency).

Implementation of mitigation measure HAZ-1 would reduce significant impacts associated with hazards to construction workers or adjacent residences due to exposure to contaminated soils during construction by requiring that the developers test near surface soils for pesticides to determine concentration levels from the previous agricultural operations and provide the results to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department. Should the results of the soil sampling exceed regulatory environmental screening levels, the applicant would be required to enter into the Santa Clara County Department of Environmental Health's Voluntary Cleanup Program, or equivalent, to formalize regulatory oversight of the mitigation of contaminated soil to ensure the project site is safe for construction workers and the public after development. As part of its development review, the City would require that any necessary remediation actions be implemented. Remediation actions could also require review and discretionary approvals by one or more responsible agencies (e.g. the California Department of Toxic Substances Control for transport and disposal of contaminated soil) where approvals could include conditions placed on the remediation process to ensure protection of public health and safety and protection of environmental resources. These conditions would also need to be satisfied prior to approval of a grading permit.

General Plan Policy EC-7.1 requires the evaluation of a project site's historical and present land uses to determine if any potential environmental conditions exist that could adversely impact the community or environment. Additionally, Policy EC-7.2 requires redevelopment projects to identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for the health of future users as part of the environmental review process. Implementation of mitigation measure HAZ-1 would ensure that on-site soils would not pose a health risk to future occupants of the site consistent with Policy EC-7.1 and EC-7.2.

Asbestos and Lead. Due to the age of the existing onsite structures, there is potential that asbestos-containing building materials and lead-based paint are present (AEI Consultants 2018, p. 27 and p. 29, respectively). In order to ensure the safety of the environment and the public from hazardous materials such as asbestos and lead, the developer would be required to incorporate the following standard permit condition to reduce potential impacts to a less-than-significant level.

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials and/or lead-based paint.

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.

- All potentially friable asbestos containing materials shall be removed in accordance with National Emission Standards for Air Pollution guidelines prior to demolition or renovation activities that may disturb asbestos-containing materials. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of asbestos-containing materials identified in the asbestos survey performed for the site in accordance with the standards stated above.

- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with Bay Area Air Quality Management District requirements and notifications.

- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.

    - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.

    - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.

    - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

Conformance with the standard permit conditions listed above would ensure that hazardous building materials associated with the on-site structures are treated, removed, and properly disposed of in accordance with state and federal regulatory requirements. Implementation of these measures would reduce this impact to a less-than-significant level.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

(**No Impact**)

There are no proposed or existing schools within one-quarter mile of the project site (City of San José 2020).

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?

(**No Impact**)

The proposed project site is not on the Hazardous Waste and Substances Sites (Cortese) List (California Department of Toxic Substances Control 2019).

The State Water Resources Control Board's GeoTracker was reviewed for any active or closed sites within 500 feet of the project site; not one was identified (State Water Resources Control Board 2020). The project site is also not listed on the California Environmental Protection Agency's list of solid waste sites identified by the Water Board with waste constituents above hazardous waste levels outside the waste management unit (California Environmental Protection Agency 2020).

e) For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or a public-use airport, result in a safety hazard or excessive noise for people residing or working in the project area?

(Less Than Significant Impact)

Pursuant to FAR Part 77, the proposed 11-story building must be filed with the Federal Aviation Administration for airspace safety review. Federal Aviation Administration issuance of a "determination of no hazard" clearance, and applicant compliance with any conditions set forth in such Federal Aviation Administration determination, would ensure that the project will not adversely impact air safety. The project site also would not be subject to high aircraft noise levels.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

(**No Impact**)

Development of the proposed project would not physically interfere with an adopted emergency response or evacuation plan.

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

(**No Impact**)

The project site is located within an urbanized area of the City. According to the General Plan EIR Figure 3.8-3, the project site is identified as not being within a very high fire hazard zone (City of San José 2011). Therefore, development of the proposed project would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Hydrology and Water Quality Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐	1,3,4,5, 10
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐	1,3,4,11
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:					
1. Result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐	1,4,30
2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐	1,4,9,10
3. Create or contribute run-off water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted run-off; or	☐	☐	☒	☐	1,4,9,10
4. Impede or redirect flood flows?	☐	☐	☒	☐	1,4
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐	1,3,4,9, 24
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	1,3,4,9, 22,24, 62

4.10.2 Environmental Setting

The Santa Clara Valley Groundwater Basin is the source for all groundwater in the County and is divided into three sub-basins: the Santa Clara Valley, Coyote Valley, and Llagas. The project site is located within the Santa Clara Valley sub-basin and the Guadalupe River watershed. The site is in FEMA Flood Zone D, which means there is no analysis of flood hazards. The site is located within the Lexington Dam failure inundation area, as identified on the General Plan EIR's Figure 3.7-5.

The site is flat, and onsite stormwater either infiltrates the existing landscaped areas of the project site or drains to the rights-of-way and into the existing storm drain inlet located at the corner of Hemlock Avenue and S. Baywood Avenue.

4.10.3 Regulatory Setting

Federal/State

Clean Water Act

The federal Clean Water Act was established "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." The Clean Water Act regulates discharges of pollutants into the waters of the United States. It provides the United States Environmental Protection Agency the authority to implement pollution control programs. The Clean Water Act also sets water quality standards for contaminants in surface waters and makes it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit is obtained.

NPDES Waste Discharge Regulations

The federal Clean Water Act established the National Pollutant Discharge Elimination System (NPDES) program to protect water quality of receiving waters. Clean Water Act Section 402 prohibits discharge of pollutants to receiving waters unless the discharge is in compliance with an NPDES permit. The United States Environmental Protection Agency has determined that California's water pollution control program has sufficient authority to manage the NPDES program under California law in a manner consistent with the Clean Water Act. Therefore, implementation and enforcement of the NPDES program is conducted through the State Water Resources Control Board and the nine Regional Water Quality Control Boards (regional boards). Refer to the State and Regional regulatory setting.

Federal Emergency Management Agency Flood Insurance Program

The Federal Emergency Management Agency (FEMA) administers programs to address flood hazards. FEMA manages the National Flood Insurance Program for this purpose. The program provides federal flood insurance and federally financed loans for property owners in flood prone areas. For this purpose, FEMA produces Flood Insurance Rate Maps (FIRMs) that define areas subject to inundation by flooding. Protective controls that must be implemented by project applicants to reduce flood hazards and damage to projects they propose are generally incorporated onto a flood hazard management program and General Plan policies of local jurisdictions. These tools assist cities in mitigating flooding hazards through land use planning and building permit requirements that must be implemented by applicants for projects located in specific flood hazard areas.

Regional/Local

Valley Water (Santa Clara Valley Water District)

Valley Water operates as the flood control agency for the County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Valley Water requires permits for all well construction and destruction work, most exploratory boring for groundwater exploration, and projects occurring on any Valley Water property or easement. Permits are required under the Water Resources Protection Ordinance and the District Well Ordinance. Valley Water, along with 15 cities, the county and business, agriculture, streamside property owner and

environmental interests set up the Water Resources Protection Collaborative, which has prepared and adopted Guidelines and Standards for Land Use Near Streams: A Manual of Tools, Standards, and Procedures to Protect Streams and Streamside Resource in Santa Clara County.

Santa Clara Basin Watershed Management Plan

The *Santa Clara Basin Watershed Management Plan* (watershed management plan) implements the basin plan in the Santa Clara Basin. The watershed management plan consists of three reports prepared by the Santa Clara Basin Watershed Management Initiative: Watershed Characteristics Report, Watershed Assessment Report, and Watershed Action Plan. The Santa Clara Basin Watershed Management Initiative vision includes contiguous habitat within and along creeks, undeveloped floodplains, protection of aquatic animals from pollutants, drainage systems that treat run-off, and efficient use and re-use of water. Two Watershed Action Plan objectives relevant to the proposed project are inclusion of the Santa Clara Basin Watershed Management Initiative visions in specific plans, and retention/detention/treatment of storm water run-off.

Hydromodification Management Plan

This report, prepared by the Santa Clara Valley Urban Runoff Pollution Prevention Program, provides background, methodologies, and standards for developing hydromodification plans. The Santa Clara Valley Urban Runoff Pollution Prevention Program maintains a set of maps that establish those areas for which a hydromodification plan is required for development projects. Hydromodification plans are incorporated as part of the other programs established to ensure water quality. The project site is not located in an area defined by the Santa Clara Valley Urban Runoff Pollution Prevention Program as being located where a hydromodification plan is required. According to the City's Public GIS Viewer, the project site is within the hydromodification management zone identified as Catchments Draining to Hardened Channel and/or Tidal Areas; therefore, the proposed project would not be required to comply with the hydromodification requirements of the Municipal Regional Stormwater NPDES Permit.

National Pollutant Discharge Elimination System General Permit for Construction Activities

The State Water Resources Control Board has implemented a National Pollutant Discharge Elimination System (NPDES) General Construction Permit for the State of California. Dischargers whose projects disturb one or more acres of soil or whose projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit – Order 2009-0009-DWQ, and as amended by 2010-0014-DWQ and 2012-0006-DWQ). Construction activity subject to this permit includes clearing, grading, and ground disturbances such as stockpiling or excavation. In order to obtain coverage under the Construction General Permit, a Notice of Intent must be filed with the Regional Water Quality Control Board, and Storm Water Pollution Prevention Plan must be developed by a certified Qualified Storm Water Pollution Prevention Plan Developer prior to commencement of construction.

Once grading begins, the Storm Water Pollution Prevention Plan must be kept on-site and updated as needed while construction progresses. The Storm Water Pollution Prevention Plan details the site-specific Best Management Practices to control erosion and sedimentation and maintain water

quality during the construction phase. The Storm Water Pollution Prevention Plan also contains a summary of the structural and non-structural Best Management Practices to be implemented during the post-construction period, pursuant to the stormwater control practices and procedures encouraged by the City of San José and the Regional Water Quality Control Board.

California Green Building Standards Code

Mandatory measures under this code include preparation of a Storm Water Pollution Prevention Plan for non-residential developments under one acre, and control of storm water run-off for residential developments under one acre (both required at a lower acreage threshold than the NPDES permit). Interior and landscape water efficiencies are required for all development.

Municipal Regional Storm Water Permit

Storm water in Santa Clara County is managed in accordance with the Municipal Regional Storm Water NPDES permit from the San Francisco Bay regional board (Permit Number R2-2009-0074, adopted on October 14, 2009, and revised on November 28, 2011). This permit regulates discharges from all municipal separate storm sewer systems in Santa Clara County, including the City. The urban runoff management program focuses on reducing pollutant transport through storm water drain systems into surface waters. In general, measures that will effectively limit storm drain pollutant discharge will also limit direct runoff of pollutants into creeks.

NPDES permit provision C.3.c requires development that creates or replaces 10,000 square feet or more of impervious surfaces to incorporate LID measures including source control measures, site design features, and treatment measures to manage storm water discharge run-off flows and reduce pollutant loads. Provision C.3.d of the NPDES permit requires that storm water treatment systems meet specific numeric sizing criteria.

NPDES permit provision C.3.g requires certain new development projects to implement hydro-modification measures to manage increases in storm water runoff flow and volume so post-project runoff does not exceed the pre-project runoff rates and durations. NPDES permit provision C.6 requires adoption of a construction site inspection and control program. Construction-site erosion control plans must be consistent with local requirements, including the appropriateness and adequacy of proposed Best Management Practices as well as verification that site operators/developers have complied with the Construction General Storm Water Permit before issuing the grading permit for a project. Inspections must be conducted to determine compliance with local grading and storm water requirements.

Provision C.14 of the NPDES permit details a control program for select contaminants to help determine whether urban runoff is a conveyance mechanism associated with impairment of San Francisco Bay by these pollutants and determine whether there are specific locations within urban watersheds where prior or current land uses contribute to discharges of these pollutants.

The Santa Clara Valley Urban Runoff Pollution Prevention Program, an association of 13 cities and towns in Santa Clara Valley, the County of Santa Clara, and Valley Water, is the local entity within Santa Clara County responsible for implementing compliance with the Municipal Regional Storm Water NPDES permit.

Chapter 17.04 – Building Code, Part 6 – Excavation and Grading

The purpose of the City's Grading Ordinance (Chapter 17.04) is to safeguard life, limb, property, water quality and natural resources, and to promote the public welfare by regulating grading. It is the intent of this chapter to establish uniform engineering standards and procedures for grading, and to allow reasonable deviations from these standards.

City of San José Development Policy 6-29 AND Policy 8-14

The City of San José's Development Policy 6-29 and Policy 8-14 implement the stormwater treatment requirements of Provision C3 of the Municipal Regional Stormwater NPDES Permit.

Envision San José 2040 General Plan

The General Plan contains goals and policies which seek to prevent flooding and improve water quality in the City. Applicable policies include:

> **Policy EC-5.1** The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
>
> **Policy EC-5.2** Allow development only when adequate mitigation measures are incorporated into the project design to prevent or minimize siltation of streams, flood protection ponds, and reservoirs.
>
> **Policy EC-5.7** Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
>
> **Policy EC-5.11** Where possible, reduce the amount of impervious surfaces as a part of redevelopment and roadway improvements through the selection of materials, site planning, and street design.
>
> **Policy EC-5.16** Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
>
> **Policy EC-5.17** Implement the Hydromodification Management requirements of the City's Municipal NPDES Permit to manage runoff flow and volume from project sites.
>
> **Policy MS-3.1** Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

Policy MS-3.2 Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.

Policy MS-3.3 Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

Policy MS-3.5 Minimize areas dedicated to surface parking to reduce rainwater that comes into contact with pollutants.

Policy MS-20.3 Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.

Policy ER-9.1 Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

4.10.4 Impact Discussion

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

(**Less Than Significant**)

The proposed project has the potential to increase discharge of storm water pollutants during construction due to ground disturbance. Projects disturbing more than one acre of land during construction are required to file a notice of intent to be covered under the State NPDES Construction General Permit for discharges of storm water associated with construction activities. Only 0.44 acres would be disturbed during development of the proposed project and, therefore, a Construction General Permit is not required.

However, all development projects in the City are required to comply with the City's Grading Ordinance whether or not the project is required to obtain a NPDES General Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 15th to April 15th), the project shall submit to the Director of Public Works an Erosion Control Plan detailing best management practices that shall prevent the discharge of stormwater pollutants. Pursuant to the Construction General Permit and City requirements, the standard permit conditions included in checklist question c) below, would reduce potential construction-related water quality impacts:

The San Francisco Bay RWQCB issued a Municipal Regional Stormwater NPDES Permit (MRP) to standardize storm water management requirements. The MRP replaces the countywide municipal storm water permits with a regional permit for bay area municipalities, including the City of San José. This permit also regulates discharges from all municipal separate storm sewer systems in Santa Clara County. Projects that add and/or replace more than 10,000 square feet of impervious surface or 5,000 square feet of specified Special Land Use Categories must comply with the MRP. Projects subject to the provisions of the MRP,

which include the proposed project, must incorporate Low Impact Development (LID) storm water treatment controls (e.g., bioretention facilities) to treat all post-construction storm water runoff.

In addition to water quality controls, the MRP also has hydromodification controls, which are defined in the Hydromodification Management Plan. Projects may be deemed exempt from the MRP hydromodification controls if they do not meet the MRP size threshold, drain into tidally influenced areas or directly into the San Francisco Bay, drain into hardened channels, or are infill projects in sub watersheds that are 65 percent or more impervious as shown on the HM Control Area Map. According to the City's Public GIS Viewer, the project site is within the hydromodification management zone identified as Catchments Draining to Hardened Channel and/or Tidal Areas; therefore, the proposed project would not be required to comply with the hydromodification requirements of the MRP. However, the proposed project must comply with other MRP requirements to include appropriate source control, site design, and storm water treatment measures to address storm water runoff pollutant discharges and prevent increases in runoff flows.

The City requires that if a redevelopment project creates, adds or replaces more than 10,000 square feet of impervious surface that a Stormwater Management Plan must also be prepared. The purpose of the Stormwater Management Plan is to identify specific tasks and programs to reduce the discharge of pollutants in stormwater.

The City's Post-Construction Urban Runoff Management Policy 6-29 requires that all new and redevelopment projects implement post-construction BMPs and Treatment Control Measures. According to the applicant's site development permit, the proposed project would implement the following site design and source control measures and treatment systems in order to reduce impacts associated with post-construction stormwater runoff:

- Create new pervious areas such as landscaping;
- Direct runoff from roofs, sidewalks, and patios to landscaped areas;
- Parking underground and covered by the proposed building;
- Implement landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, and minimizes the use of pesticides and fertilizers; and
- Create a bioretention area (one LID bioretention area proposed on the western side of the project site).

The City would review the Stormwater Management Plan and development plans for consistency with local requirements and the appropriateness and adequacy of proposed BMPs before issuance of grading permits as part of the building permit process. BMPs must include measures for soil stabilization, sediment control, sediment tracking control, wind erosion control, and non-storm water management, and waste management and disposal control. With the required preparation and implementation of a Stormwater Management Plan and the standard measures in conformance with the MRP, the proposed project would not violate any water quality standards or waste discharge requirements. Therefore, grading and construction

activities do have the potential to impact water quality, however, with implementation of the City's required conditions discussed above, the potential water quality impact would be less than significant and no mitigation is required.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

(Less Than Significant)

Groundwater Supplies. Water service to the project site would be provided by the Santa Clara Valley Water District (Valley Water), which receives its water supply from several locations including local groundwater, local surface water, and imported treated. In addition, there is a fourth and growing source of supply, non-potable recycled water. Groundwater remains a major source of water supply for the Valley Water.

As described in Section 4.19, Utilities and Service Systems, the proposed project would result in the water demand increase of 28 acre-feet per year compared to existing conditions. However, the Santa Clara Valley sub-basin has an operational storage capacity estimated to be 350,000 acre-feet (San José Water Company 2016, p. 6-1), which could adequately support the proposed project. Therefore, as described in more detail in Section 4.19, Utilities and Service Systems, the proposed project would not substantially decrease groundwater supplies such that the project would impede sustainable groundwater management of the basin.

Groundwater Recharge. The project site lies within the Santa Clara Subbasin, a subbasin of the Santa Clara Valley Groundwater Basin. Valley Water operates and maintains 18 major groundwater recharge facilities in the Santa Clara Valley and diverts water from local reservoirs and imported water to in-stream and off-stream percolation facilities to assist with groundwater recharge in the Santa Clara Valley (City of San José 2011). According to the General Plan EIR, development and redevelopment of new residential, commercial, or industrial uses allowed under the General Plan is not proposed to occur within any of the Valley Water's percolation facilities for groundwater recharge nor would it otherwise affect the operation of the percolation or recharge facilities (City of San José 2011, p. 549).

Development of the proposed project could potentially interfere with groundwater recharge by increasing the area covered by impervious surfaces. The proposed project includes one onsite LID bioretention area located in the northwestern corner of the site to detain storm water runoff on-site and ultimately drain to the San Francisco Bay, thereby allowing for groundwater recharge.

Implementation of the policies listed under the Regulatory subsection under Regional/Local of this section would reduce adverse impacts to groundwater recharge areas. As a result of implementing the applicable General Plan policies supporting groundwater recharge, the proposed project would not contribute to a substantial depletion of groundwater supplies or interfere substantially with groundwater recharge. Impacts related to groundwater recharge would be less than significant.

c.1) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site?

c.2) …would substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

c.3) … would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

c.4) … would impede or redirect flood flows?

(Less Than Significant)

The project site does not contain any streams or rivers. The project site is within a highly urbanized and developed area with three existing residential structures, one detached garage, and one shed. A review of the project plans indicates that the proposed project would increase the development footprint at the project site and therefore, the proposed project would increase impervious surfaces. Potential impacts from the increase in impervious surfaces are discussed below:

Erosion. Development of the proposed project may lead to siltation and/or erosion on- or off-site during construction activities. As indicated in the answer to checklist question a), prior to the issuance of a grading permit, the applicant would be required to submit an Erosion Control Plan to the Department of Public Works. The Erosion Control Plan may include BMPs as specified in ABAG's Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. In addition, the following standard permit conditions would be required in order to reduce erosion impacts during construction to a less-than-significant level.

Standard Permit Conditions

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance (Chapter 17.04), including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Erosion impacts could also occur post-construction as well. Therefore, the project is required to comply with the specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008), would be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

The project would not result in substantial erosion or siltation on or off site by complying with the State's Construction Stormwater Permit and the City's Grading Ordinance.

Flooding. The Conceptual Stormwater Control Plan (Sheet C3.0 in Appendix A) indicates that storm water from the proposed project would drain into the LID bioretention area located on the northwestern corner of the project site and connect into the new 12-inch storm drain to be constructed in S. Baywood Avenue and travel south to the existing storm drain system located on the corner of Hemlock and S. Baywood Avenues, and ultimately into the San Francisco Bay. As a result, the proposed project would reduce the potentially significant impact related to flooding on- or off-site to a less-than-significant level.

Runoff. The Conceptual Stormwater Control Plan (Sheet C3.0 in Appendix A) indicates that storm water from the proposed project would drain into the above-indicated LID bioretention area and be directed to the existing City storm drain system located on the corner of Hemlock and S. Baywood Avenues. The proposed project would use onsite Best Management Practices for treatment and infiltration, and overflow would be directed to the drainage treatment areas, which flow into the City's existing storm drain system and ultimately into the San Francisco Bay. Moreover, the Conceptual Stormwater Control Plan includes a Treatment Control Measure Summary Table, which illustrates that the proposed bioretention areas that incorporate LID storm water treatment controls. These identified best management practices and treatment control measures would reduce the potential for the project's contribution to runoff water that could exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff to a less-than-significant level.

Flood flows. As discussed under checklist question d) below, the project site is located within an area where flood hazards have not been analyzed. Development of the proposed project would result in an increase in impervious features onsite, but would not impede or redirect flood flows to a significant level that isn't already being managed by the proposed storm water control and treatment measures proposed onsite. Therefore, impacts related to flood flows as a result of the proposed project would be less than significant.

d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

(Less Than Significant)

The project site is in Zone D under the FEMA Flood Zones, which means that there is no analysis of flood hazards conducted in the project site's area. The project site is located a significant distance from the coast or any sizeable lakes or ponds, is not located nearby to steep hillsides, and its topography is flat. Therefore, the site is not located in an area subject to significant seiche or tsunami risk.

However, the site is located within the Lexington dam failure inundation area, as identified on the General Plan EIR's Figure 3.7-5. The actual extent and depth of inundation in the event of a failure would depend on the volume of storage in the reservoir at the time of failure. The risks of failure are reduced by several regulatory inspection programs, and risks to people and property in the inundation area are reduced by local hazard mitigation planning. The California Department of Water Resources, Division of Safety of Dams is responsible for regular inspection of dams in California. The California Department of Water Resources and local agencies (e.g. Valley Water) are responsible for minimizing the risks of dam failure thus avoiding the release of pollutants due to project inundation (City of José 2011, p. 545).

Pollutants typical to be released during a storm event from a mixed-use project include small quantities of miscellaneous household cleaning supplies and other chemicals that could mix with the storm water. This would be considered a significant impact, but is reduced to a less-than-significant level with appropriate oversight via state and local agencies who are responsible for reducing the potential for the release of pollutants due to project inundation.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

(**No Impact**)

The San Francisco Bay RWQCB regulates water quality in the area, including the City, in accordance with the Water Quality Control Plan or "Basin Plan". The Basin Plan lists the beneficial uses which the RWQCB has identified for local aquifers, streams, marshes, rivers, and the Bay, as well as the water quality objectives, and criteria that must be met to protect these uses. The RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements to control water quality and protect beneficial uses. These can include permits for "point sources" such as the San José/Santa Clara Water Pollution Control Plant or "non-point sources" such as the urban runoff discharged by a City's stormwater drainage system.

As discussed under checklist question a) above, the project developer is subject to the provisions of the MRP, as directed under the San Francisco Bay RWQCB, and must incorporate Low Impact Development (LID) storm water treatment controls (i.e. the proposed bioretention area, see the Conceptual Stormwater Control Plan) to treat all post-construction storm water runoff. By complying with the MRP requirements, the proposed project would not conflict with the Basin Plan.

The Sustainable Groundwater Management Act is a State law requiring groundwater basins to be sustainable. The act enables eligible local agencies to form groundwater sustainability agencies, develop groundwater sustainability plans for designated basins in their jurisdiction by 2020, and achieve groundwater sustainability within 20 years of plan implementation. Valley Water is the groundwater sustainability agency for Santa Clara groundwater basin. In July 2019, the Department of Water Resources approved Valley Water as the Groundwater Sustainability Agency for the Santa Clara Valley Subbasin, and also approved Valley Water's 2016 Groundwater Management Plan as an alternative for a Groundwater Sustainability Plan.

The proposed project would not conflict with the 2016 Groundwater Management Plan because its onsite bioretention areas and treatment control measures would detain storm water runoff onsite and ultimately drain to the San Francisco Bay, thereby allowing for groundwater recharge and it would implement the policies listed under the Regulatory subsection under Regional/Local of this section in order to reduce adverse impacts to groundwater recharge areas. As concluded in the discussion under checklist question b), the proposed project would not contribute to a substantial depletion of groundwater supplies or interfere substantially with groundwater recharge, and, therefore, would not conflict with the sustainable groundwater management plan.

4.11 LAND USE AND PLANNING

4.11.1 Land Use and Planning Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Physically divide an established community?	☐	☐	☐	☒	1,9
b) Cause any significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐	1,3, 4, 5, 9, 10,11, 13,22, 24,30, 34,35, 36,37, 41,42, 43,44, 45,46, 52,53, 61

4.11.2 Environmental Setting

The project site is surrounded by residential and commercial uses to the north, commercial uses to the east, a four-story multi-family development and parking lot to the south, and one-story residences to the west. The project site is in the Commercial Pedestrian Zoning District. The Commercial Pedestrian zone is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The CP Commercial Pedestrian District also encourages mixed residential/ commercial development where appropriate, and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies.

The General Plan designates the project site for Urban Village, which accommodates employment and housing growth and reduces environmental impacts of that growth by promoting transit use and walkability. The General Plan states that the Urban Village designation will guide the City toward fulfillment of its future vision (City of San José 2011, Chapter 1, p. 2).

4.11.2 Regulatory Setting

Envision San José 2040 General Plan

The General Plan includes Community Design Goals, Policies, and Implementation Actions that guide the form of future development in San José and help tie individual projects to the vision for the surrounding area and the city as a whole. The following policies are specific to land use and planning and apply to the proposed project (City of San José 2011):

Policy CD-1.1 Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.8 Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.12 Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-4.5 For new development in transition areas between identified Growth Areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, view shed, or other land use compatibility concerns.

Policy CD-4.9 For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy CD-5.8 Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

Policy ES-6.1 Facilitate the development of new and promote the preservation and enhancement of existing health care facilities that meet all the needs of the entire San José community.

Policy ES-6.2 Maintain and update the Envision General Plan Land Use Transportation / Diagram as necessary to provide sufficient opportunities for hospitals and medical care facilities to locate in San José. Consider locating health care and medical service facilities, including hospitals, in residential, commercial, Urban Village, mixed use, Downtown, Transit Employment Center, Combined Industrial/Commercial, Industrial Park, and Public/Quasi-Public designations.

Policy ES-6.3 Recognizing that health care is a regional issue that crosses jurisdictional boundaries, work with the County, non-profits, and other governmental and non-governmental organizations to ensure that adequate, affordable health care facilities are available for all San José residents.

Policy ES-6.5 Encourage new health care facilities to locate in proximity to existing or planned public transit services. Coordinate with local transit providers as part of the development review process for new health care facilities, and encourage transit providers to provide new or enhance existing public transit services to the health care facility

Policy ES-6.12 Consider strategies and incentives to attract hospitals and other health care and medical service facilities to areas of San José where a demand for those services is demonstrated in analyses prepared by county, state, or professional consultants.

Policy IP-1.6 Ensure that proposals to rezone and prezone properties conform to the Land Use/ Transportation Diagram, and enhance Envision General Plan Vision, goals, and policies.

Policy IP-8.2 Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed uses and development intensity correspond generally to the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

Policy LU-5.2 To facilitate pedestrian access to a variety of commercial establishments and services that meet the daily needs of residents and employees, locate neighborhood-serving commercial uses throughout the city, including identified growth areas and areas where there is existing or future demand for such uses.

Policy LU-5.6 Encourage and facilitate the upgrading, beautifying, and revitalization of existing strip commercial areas and shopping centers. Minimize the visual impact of large parking lots by locating them away from public streets.

Policy LU-9.5 Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.

Santana Row Valley Fair Urban Village Plan Polices

The adopted Santana Row Valley Fair Urban Village Plan includes the following land use policy and design standards applicable to the proposed project:

Policy 3-9 Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use Plan. Because the Land Use Plan identifies the City's long-term planned land use for a property, non-conforming uses should transition to the planned use over the time. Allow improvements or minor expansion of existing, nonconforming land uses provided that such development will contribute to San José's and this Plan's employment growth goals or advance a significant number of other goals of this Plan.

DG-35 Non-occupiable architectural features such as roof forms, chimneys, stairwells and towers may project up to ten feet above the maximum height.

DS-8 Projects must comply with the SRVF Urban Village Height Limits (Figure 5-2).

DS-10 Projects must comply with the Building Placement Standards (Table 5-1).

4.11.3 Impact Discussion

a) Physically divide an established community?

(**No Impact**)

The proposed project is an infill, redevelopment project, consistent with surrounding land uses, and would not divide connected neighborhoods or land uses. The proposed project does not include new roadways, infrastructure or development features that would not divide an established community; therefore, the project would not physically divide an established community.

b) Cause any significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

(**Less than Significant**)

The proposed project, as mitigated, would be consistent with the air district's air quality management plan and would not conflict with general plan policies and air district requirements that call for the reduction of exposures to significant sources of air contaminants (refer to Section 4.3, Air Quality).

Although the project site is considered urban development under the existing Habitat Plan, the proposed project is subject to the applicable Habitat Plan conditions and fees. As discussed in Section 4.4, Biological Resources, implementation of Mitigation Measure BIO-1 and the standard permit condition identified under checklist question a) and e), respectively, would reduce impacts to nesting bird habitats that may be impacted by the proposed project and ensure compliance with the City's tree removal permitting and tree replacement requirements for ordinance-sized trees. As a result, the proposed project's impacts on legally protected plant and wildlife species would be less than significant.

SB 32 is considered to be the plan for reducing GHG emissions that is applicable to the proposed project. The GHG threshold of significance derived for the project is based on the rate of project emissions below which the project would not impede attainment of the SB 32 statewide emissions reduction goal for 2030. SB 32 is considered to be the applicable plan for reducing GHG emissions. Project emissions are below the threshold, the project would not conflict with SB 32 emissions reduction goals (refer to Section 4.8, Greenhouse Gas Emissions).

As discussed in Section 4.10, Hydrology and Water Quality, the project overlies the Santa Clara Valley Subbasin of the Santa Clara Valley Groundwater Basin. The Santa Clara Valley Subbasin is analyzed within the San Francisco Bay RWQCB's Basin Plan, which provides water quality objectives and criteria that must be met to protect groundwater uses. The proposed project does not conflict with the Basin Plan because the project developer is subject to the provisions of the NPDES Construction General Permit, as directed under the San Francisco Bay RWQCB, and must incorporate Low Impact Development storm water treatment controls to treat all post-construction storm water runoff. By complying with the NPDES Construction General Permit requirements, the proposed project would not conflict

with the Basin Plan. Additionally, the proposed project would not conflict with the sustainable groundwater management plan because it would comply with the regional board's regulations that support the protection of the of groundwater supply and water quality and is consistent with the type of development anticipated by the General Plan.

The proposed project is also required to prepare and implement a Stormwater Management Plan in conformance with the City's Policy 6-29 and other relevant standards, which are established by the City pursuant to its Municipal Regional Stormwater Permit and Waste Discharge Requirements (Construction General Permit, Order 2009-0009-DWQ, and as amended by 2010-0014-DWQ and 2012-0006-DWQ).

As discussed in Section 4.13, Noise, the proposed project, as mitigated, would not conflict with general plan policies or municipal code requirements for reducing exposures to unacceptable noise due to construction.

As discussed in Section 4.17, Transportation, as mitigated, the proposed project would not conflict with the County's adopted policies or plans regarding the roadway network, public transit, bicycle, or pedestrian facilities.

For these reasons, the proposed project would not result in significant physical environmental impacts due to conflicts with land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect.

4.12 MINERAL RESOURCES

4.12.1 Mineral Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Result in loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	1,3,4
b) Result in the loss of availability of a locally important mineral resource recovery site delineated in a local general plan, specific plan, or other land-use plan?	☐	☐	☐	☒	1,3,4

4.12.2 Environmental Setting

According to the General Plan EIR, only one area of the City is designated by the State Mining and Geology Board under the Surface Mining and Reclamation of 1975 as containing mineral deposits. This area, called Communications Hill, is located over four miles southeast of the project site.

4.12.3 Regulatory Setting

Local

Envision San José 2040 General Plan

Chapter 3, Environmental Leadership, in the City's General Plan sets forth sustainability goals for the City through 2040. The following mineral resources-related policies are relevant to the project (City of San José 2011):

> **Policy ER-11.4** Carefully regulate the quarrying of commercially usable resources, including sand and gravel, to mitigate potential environmental effects such as dust, noise and erosion.
>
> **Policy ER-11.5** When approving quarrying operations, require the preparation and implementation of reclamation plans for the contouring and revegetation of sites after quarrying activities cease.

4.12.4 Impact Discussion

a) Result in loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

b) Result in the loss of availability of a locally important mineral resource recovery site delineated in a local general plan, specific plan, or other land-use plan?

(**No Impact**)

The project site is not located in a portion of the City identified as containing mineral deposits by the City's General Plan (City of San José 2011). Therefore, the project would not result in the loss of any known mineral resources.

4.13 NOISE

4.13.1 Noise and Vibration Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in applicable standards of other agencies?	☐	☒	☐	☐	1,3,53
b) Generation of excessive ground-borne vibration or ground borne noise levels?	☐	☒	☐	☐	1,53
c) For a project located within the vicinity of a private airstrip or an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or public-use airport, expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1,9,10

4.13.2 Noise Fundamentals

Noise is unwanted sound that disturbs human activity. Environmental noise levels typically fluctuate over time, and different types of noise descriptors are used to account for this variability. Noise level measurements include intensity, frequency, and duration, as well as time of occurrence. Noise level (or volume) is generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). In terms of human perception, a 5 dB increase or decrease is considered to be a noticeable change in noise levels. Additionally, a 10 dB increase or decrease is perceived by the human ear as half as loud or twice as loud. In terms of perception, generally speaking, the human ear cannot perceive an increase (or decrease) in noise levels less than 3 dB (WJV Acoustics 2020, |p. 2). Quiet suburban areas typically have noise levels in the range of 40-50 dBA, while arterial streets are in the 50-60+ dBA range. Normal conversational levels are in the 60-65 dBA range, and ambient noise levels greater than 65 dBA can interrupt conversations.

Typically, noise levels attenuate (drop off) at a rate of 6 dBA per doubling of distance from point sources (such as construction equipment). Noise from lightly traveled roads typically attenuates at a rate of approximately 4.5 dBA per doubling of distance. Largely, noise from heavily traveled roads attenuates at a rate of 3 dBA per doubling of distance; while usually noise from a point source attenuates at a rate of 6 dBA per doubling of distance. Noise levels may also be reduced by the introduction of intervening structures. For example, a single row of buildings between the receptor and the noise source reduces the noise level by about 5 dBA, while a solid wall or berm that breaks the line-of-sight reduces noise levels by 5 to 10 dBA.

In addition to the instantaneous measurement of sound levels, the duration of sound is important because sounds that occur over a long period of time are more likely to be an annoyance or cause direct physical damage or environmental stress. One of the most frequently used noise metrics that

considers both duration and sound power level is the equivalent noise level (Leq). The Leq is defined as the single steady A-weighted level that is equivalent to the same amount of energy as that contained in the actual fluctuating levels over a period of time (essentially, the average noise level). Typically, Leq is summed over a one-hour period. Lmax is the highest root mean squared sound pressure level within the measurement period, and Lmin is the lowest root mean squared sound pressure level within the measurement period.

The time period during which noise occurs is also important since nighttime noise tends to disturb people more than daytime noise. Community noise is usually measured using a Day-Night Average Level (DNL), which is the 24-hour average noise level with a 10 dBA penalty for noise occurring during nighttime (10 p.m. to 7 a.m.) hours, or Community Noise Equivalent Level (CNEL), which is the 24-hour average noise level with a 5 dBA penalty for noise occurring from 7 p.m. to 10 p.m. and a 10 dBA penalty for noise occurring from 10 p.m. to 7 a.m. Noise levels described by DNL and CNEL usually do not differ by more than 1 dB and are used interchangeably in practice.

4.13.3 Vibration

Vibration is a unique form of noise because its energy is carried through buildings, structures, and the ground, whereas sound is simply carried through the air. Thus, vibration is generally felt rather than heard. Some vibration effects can be caused by noise (e.g., the rattling of windows from passing trucks). This phenomenon is caused by the coupling of the acoustic energy at frequencies that are close to the resonant frequency of the material being vibrated. Typically, ground-borne vibration generated by manmade activities attenuates rapidly as distance from the source of the vibration increases. The ground motion caused by vibration is measured as peak particle velocity (PPV) in inches per second (PPV [in/sec]) and is measured in vibration decibels (VdB).

Although PPV is appropriate for evaluating the potential for building damage, it is not always suitable for evaluating human response. It takes some time for the human body to respond to vibration signals. In a sense, the human body responds to average vibration amplitude/decibels. The vibration velocity level threshold of perception for humans is approximately 65 VdB. A vibration velocity of 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible levels for many people. Most perceptible indoor vibration is caused by sources inside buildings such as the operation of mechanical equipment, movement of people, or the slamming of doors. Typical outdoor sources of perceptible ground-borne vibration are construction equipment, steel-wheeled trains, and traffic on rough roads.

Construction vibration is generally assessed in terms of PPV. The relationship of PPV to VdB is expressed in terms of the "crest factor," defined as the ratio of the PPV amplitude to the VdB amplitude. Typically, PPV is a factor of 1.7 to 6 times greater than VdB.

4.13.4 Environmental Setting

The *Environmental Noise Assessment* (noise assessment) prepared for the proposed project determined if significant noise impacts would be produced by the proposed project and described mitigation measures for noise if significant impacts were determined. The noise assessment was prepared by WJV Acoustics, Inc. and can be found in Appendix F.

Existing ambient noise levels in the project vicinity are dominated by traffic noise along local roadways adjacent to and the in vicinity of the project site. Additional sources of noise observed during site inspection included aircraft overflights, birds, barking dogs, construction activities and landscaping activities.

The noise assessment conducted measurements of existing ambient noise levels in the project vicinity from a total of six different locations; one site, located at the front of the current residence at 375 S. Baywood Avenue, was measured for long-term (24-hour) ambient noise levels and the other five sites, located in the vicinity of existing commercial, office, and residential uses, measured short-term (15-minute) ambient noise levels (refer to Figure 2 of the noise assessment in Appendix F for their exact locations). Hourly maximum noise levels measured at the long-term site ranged from 60.5 to 90.9 dB with a residual noise level (or background noise in the absence of identifiable single noise events such as traffic, aircraft, and other local noise sources) ranging from 38.9 to 51.0 dB. All five of the short-term monitoring sites were exposed to noise from traffic sources, construction noise sources, aircraft overflights and other sources typical of an urban residential environment (i.e. barking dogs, birds, landscaping activities, etc.). The highest level of noise for the short-term measurement sites were the two locations within the vicinity of commercial and office uses; the full short-term noise measurement data can be found in Table III of the noise assessment.

4.13.5 Regulatory Setting

State

California Building Code

The California Building Code requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new nonresidential buildings as set forth in the 2016 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards, such as Sound Transmission Class ratings,19 that building materials and assemblies need to be in compliance with based on the noise environment. The performance method of the Green Building Standards Code (Section 5.507.4.2) states that buildings exposed to noise sources shall be constructed to minimize the interior noise levels, so they do not exceed an hourly equivalent noise level (Leq (1-hr)) of 50 dBA in occupied areas during any hour of operation.

Regional/Local

General Plan

The City's General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for various land uses. The General Plan include the following criteria for land use compatibility and acceptable exterior noise levels in the City based on land use types. The noise level criteria established in the General Plan are provided below:

Policy EC-1.1 Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

- The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:

- For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Policy EC-1.2 Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"

- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where the noise levels would equal or exceed the "Normally Acceptable" level.

Policy EC-1.3 Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasipublic land uses.

Policy EC-1.7 Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy E-2.3 Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

City Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line, except upon issuance and in compliance with a Special Use permit as provided in Chapter 20.100.

Table 10 Zoning Ordinance Noise Standards

Land Use Types	Maximum Noise Levels in Decibels at Property Line
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used or zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

SOURCE: City of San José Zoning Ordinance

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

4.13.6 Impact Discussion

a) Result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in applicable standards of other agencies?

(**Less Than Significant with Mitigation**)

Permanent Noise Sources

Project-related Traffic Noise (No Impact). Project-related significant impacts would occur if an increase in traffic noise associated with the project would result in noise levels exceeding the City's applicable noise level standards at the locations of sensitive receptors (residences). A significant impact is also assumed to occur if traffic noise levels were to increase by three dB at sensitive receptor locations where noise levels already exceed the City's applicable noise level standards (without the project), as three dB generally represents the threshold of perception in change for the human ear.

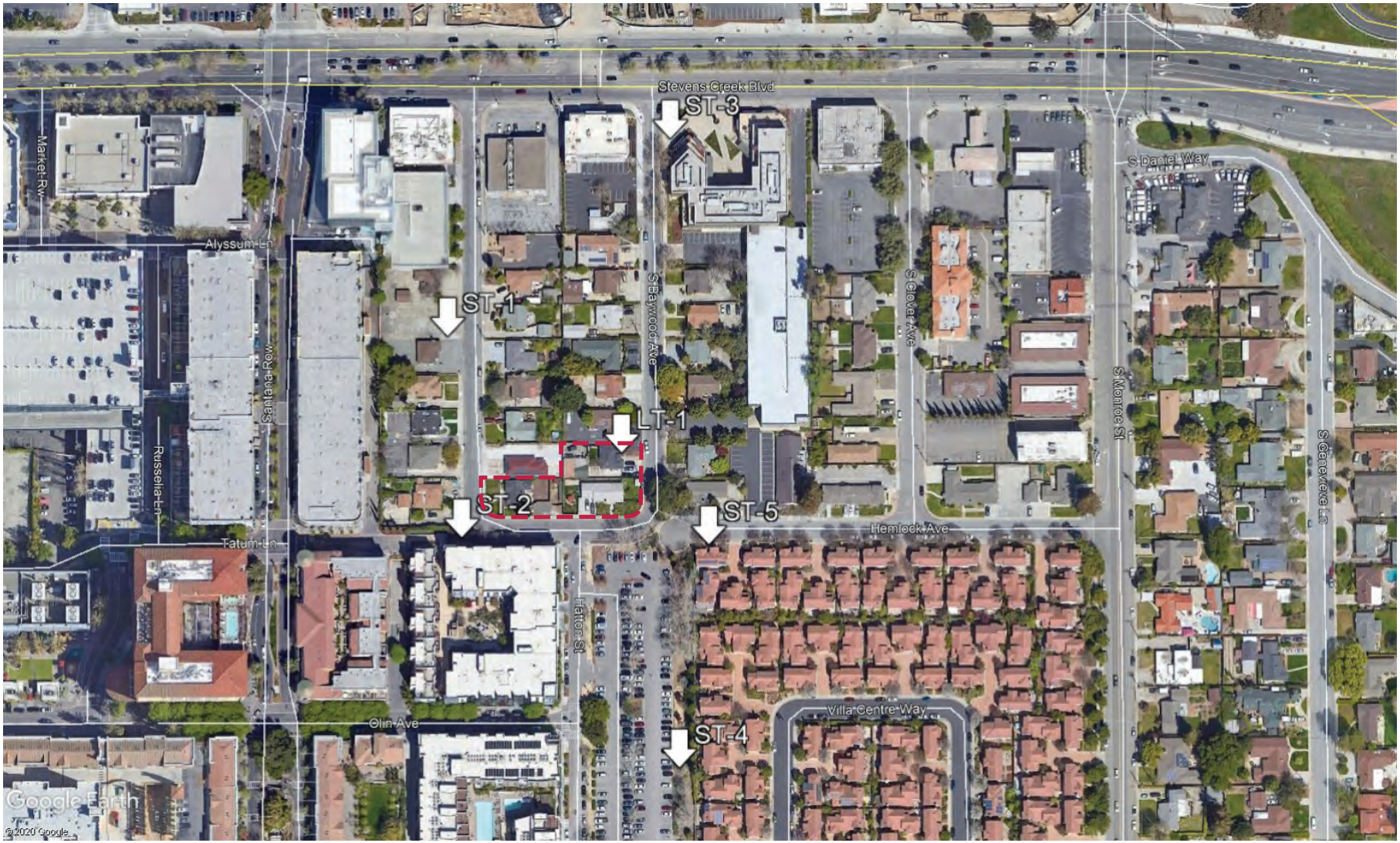
The noise assessment's analysis of project traffic noise focused on residential land uses, as they represent the most restrictive noise level criteria by land use type provided in the General Plan. The City's exterior noise level standard for residential land uses is 60 dB Ldn. Traffic noise was modeled at six receptor locations located at roadway setback distances representative of the sensitive receptors (residences) along each analyzed roadway segment. The receptor locations are shown on Figure 7, Noise Receptor Locations.

Table IV, presented in Figure 8, Project-Related Increases in Traffic Noise at Receptor Locations, shows that existing noise levels will not increase with the addition of project traffic. Therefore, the proposed project would have no permanent traffic-related noise impact as the project would not increase noise levels.

Project Noise Levels During Operation (Less than Significant). Sources of operational noise from the proposed project include parking lot vehicle movements, outdoor human activity, and possibly mechanical/HVAC rooftop systems (if included in final project design). The proposed project does not include loading docks or trash compactors; therefore, truck deliveries would not be expected to occur at the site (WJV Acoustics 2020, p. 11).

Operational exterior noise levels associated with the proposed project would be limited to human voices within individual balconies and the roof garden common area as well as noise associated with mechanical/HVAC systems. It is assumed that any mechanical/HVAC system equipment would be roof mounted or contained within the building itself. HVAC noise levels would be expected to be below 50 dB at the adjacent residential land uses. Vehicle movements would be limited to the enclosed and below ground parking area, and vehicle noise would not be expected to exceed any City of Sana Jose noise level standards.

Operational noise associated with the project itself would not be expected to exceed 60 dB Ldn (General Plan) or 55 dB Lmax (Municipal Code) at any adjacent or nearby residential land uses. Noise sources associated with typical balcony use would generally be limited to that of human conversation, which has a noise level of approximately 60 dB at a distance of six feet. Taking into consideration the standard rate of attenuation of noise with increased distance from



0 210 feet

Project Site

Source: WJV Acoustics, Inc., 2020

Figure 7

Noise Receptor Locations

Baywood Mixed-Use Project Initial Study

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TABLE IV

PROJECT-RELATED INCREASES IN TRAFFIC NOISE, dB, CNEL
BAYWOOD CONDOMINIUM MIXED-USE DEVELOPMENT

Modeled Receptor	Existing	Existing Plus Project	Cumulative	Cumulative Plus Project	Change (Maximum)	Significant Impact?
R-1	67	67	68	68	0	No
R-2	60	60	61	61	0	No
R-3	61	61	63	63	0	No
R-4	55	55	56	56	0	No
R-5	57	57	60	60	0	No
R-6	45	45	45	45	0	No

Source: WJV Acoustics, Inc. and Hexagon Transportation Consultants, 2020

Figure 8
Project-Related Increases in Traffic Noise at Receptor Locations

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a point source, noise levels associated with human speech would be below the 55 dB Lmax criterion at a distance of approximately 11 feet. All balconies would be located at distances greater than 11 feet from adjacent residential land uses. Additionally, measured existing ambient noise levels at noise measurement site LT-1 (in the vicinity of adjacent residential land uses) indicate that maximum (Lmax) noise levels measured over the 24-hour measurement period ranged from approximately 61 to 91 dB Lmax. Therefore, noise levels associated with balcony use would not only not be expected to exceed the 55 dB Lmax criterion, they would not be expected to exceed existing (without project) ambient noise levels.

Noise due to traffic in parking lots is typically limited by low speeds and is not usually considered to be significant; nonetheless, all project parking spaces are proposed within the underground parking garages and noise associated with vehicle movements would not be audible at any nearby sensitive receptor locations (WJV Acoustics 2020, p. 12).

Although not specifically shown on the applicant's project plans, noise levels for potential for roof-mounted HVAC units were assessed to be conservative. Noise related to roof-mounted HVAC units would be in the range of 45-50 dBA at the nearest offsite residential land use. These levels would generally not be audible above existing ambient noise levels at adjacent land-uses and would not exceed any City noise level standards (p. 12). The following standard permit condition would ensure that the proposed project would have no permanent on-site operational noise impact as noise levels would not be audible.

Standard Permit Condition

- Mechanical equipment shall be selected and designed by the project applicant to reduce impacts on surrounding uses to meet the City's 55 dB(A) noise level requirement at the property line of nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary to reduce noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures may be optimal, such as locating equipment in less noise-sensitive areas, such as the rooftop away from the edges, where feasible

Temporary Noise Sources

Project Noise Levels During Construction (Less than Significant with Mitigation). Pursuant to General Plan Policy EC-1.7, significant construction noise impacts would occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than twelve months.

The following equipment list includes some of those anticipated to be used alongside its maximum noise levels, dBA, within 100-, 200-, and 300 feet, respectively.

- Concrete Saws (84, 78, 74);
- Excavators (75, 69, 65);

- Dozers (76, 70, 66);
- Backhoes (80, 74, 70);
- Graders (80, 74, 70);
- Cranes (75, 69, 65);
- Portable Generators (74, 68, 64);
- Pavers (71, 65, 61); and
- Rollers (74, 68, 64).

The project will implement the following standard permit conditions.

Standard Permit Condition

Construction-Related Noise. Noise minimization measures include, but are not limited to, the following:

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.

- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

- Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

However, construction noise is typically not considered to be a significant impact if construction is limited to the daytime hours and construction equipment is adequately maintained and muffled. However, due to project construction estimating to occur for approximately 20 months, the following mitigation measure is required in order to ensure temporary construction noise levels are less than significant.

Mitigation Measure

N-1 Prior to the issuance of any demolition, grading or building permits, the project applicant shall prepare and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction (i.e. prior to grading permits) and implemented during construction to reduce noise impacts on neighboring residents and other uses. The construction noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review prior to issuance of any demolition, grading, or building permits.

Implementation of N-1 identified above would reduce impacts related to temporary noise level increase as a result of construction of the project site by requiring that a construction noise logistics plan be provided and reviewed by the City's Planning and Building Department due to construction occurring for a duration greater than one year. This mitigation would be implemented by the applicant and would be required to be in place prior to issuance of grading permits.

b) Result in generation of excessive ground-borne vibration or ground borne noise levels?

(**Less Than Significant**)

The dominant sources of man-made vibration are sonic booms, blasting, pile driving, pavement breaking, demolition, diesel locomotives, and rail-car coupling. The highest levels of construction-related vibrations are typically associated with pile driving and the use of vibratory rollers. While the project would include pavement breaking and demolition activities, project demolition and construction would not require pile driving or the use of a vibratory roller. Vibration from demolition and construction activities could be detected at the closest sensitive land uses, especially during demolition (pavement/concrete breaking), movements by heavy equipment or loaded trucks and during some paving activities (if they were to occur) (WJV Acoustics 2020, p. 14).

The following two equipment anticipated to be used during construction of the proposed project could result in the identified vibration levels during construction, PPV (in/sec), within 25-, 100-, and 300 feet, respectively.

- Dozers (0.089, 0.019, 0.006); and
- Rollers (0.210, 0.046, 0.013).

Other construction equipment, not all to be used for the proposed project however, are included in Table VI of the noise assessment. There are buildings directly adjacent to the project site that look closer than 25 feet, so it is likely they will experience significant impacts from vibrations due to the use of rollers, which is considered a significant impact. Implementation of the proposed project would result in significant construction related to groundborne vibration impacts at the nearest structures; therefore, the following mitigation is required to reduce impacts to a less than significant level.

Mitigation Measure

N-2 The project applicant shall implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not to be limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.
- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for

continuous vibration monitoring. Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 25 feet of any adjacent building.

- Identification of the sensitivity of nearby structures to groundborne vibration. Vibration limits should be applied to all vibration-sensitive structures located within 50 feet of construction activities identified as sources of high vibration levels.
- Preconstruction condition surveys of the structures within 50 feet of construction activities identified as source of high vibration levels shall be completed with the agreement of the property owner.
- Surveys shall be performed prior to any construction activity, in regular interval during construction and after project completion.
- At a minimum, vibration monitoring should be conducted during demolition and excavation activities.
- If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
- Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

The construction vibration plan shall be submitted to the Supervising Environmental Planner prior to the issuance of any demolition permits and grading permits. The associated monitoring reports shall be submitted after substantial completion of each phase identified in the project schedule to the Supervising Environmental Planner. An explanation of all events that exceeded vibration limits shall be included together with proper documentation of any exceedance event.

c) For a project located within the vicinity of a private airstrip or an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or public-use airport, expose people residing or working in the project area to excessive noise levels?

(**No Impact**)

The proposed project is not within the vicinity of an airport land use plan nor is it within two miles of a public airport or public-use airport. The project site is located outside any San Jose International Airport noise exposure area depicted in the City of San Jose's Environmental Impact Report certified in April 2020 for the amended Airport Master Plan.

Non-CEQA

Standard Permit Condition

Interior Noise Standard for Residential Development. The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

4.14 POPULATION AND HOUSING

4.14.1 Population and Housing Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Induce substantial unplanned population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☐	☒	1,44,29
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1

4.14.2 Environmental Setting

According to the California Department of Finance, the City has an estimated 2019 population of approximately 1,043,058 and an estimated 335,887 housing units. The City's housing stock has an average of 3.19 persons per household in 2020 (California Department of Finance 2020b). Based on the City's General Plan EIR, the projected population in 2035 would be approximately 1.3 million persons occupying approximately 430,000 households (City of San José 2011, p. 772). With 79 dwelling units and an average of 3.19 persons per household, the proposed project could generate an estimated 252 new residents (79 condominiums x 3.19 persons per household).

According to the *2017 CMP Monitoring and Conformance Report* prepared by the Santa Clara Valley Transportation Authority, the estimated job density (jobs per 1,000 square feet) for an office use is 3.4. With 9,820 square feet of office space, the proposed project would generate an estimated 33 new employees (9,820 square feet of office space x 3.4 jobs / 1,000 square feet).

4.14.3 Regulatory Setting

Local

Envision San José 2040 General Plan

Chapter 4, Quality of Life, in the City's General Plan addresses how quality of life will be advanced as the City promotes economic development and continues to grow a safe, diverse, and thriving community with employment opportunities, well-maintained infrastructure, urban services, and cultural and entertainment options. The following policies are considered relevant to the proposed project (City of San José 2011):

> **Policy H-3.2** Design high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas, to:
>
> 1. Create and maintain safe and pleasant walking environments to encourage pedestrian activity, particularly to the nearest transit stop and to retail, services, and amenities.
>
> 2. Maximize transit usage.

3. Allow residents to conduct routine errands close to their residence, especially by walking, biking, or transit.

4. Integrate with surrounding uses to become a part of the neighborhood rather than being an isolated project.

5. Use architectural elements or themes from the surrounding neighborhood when appropriate.

6. Provide residents with access to adequate on- or off-site open space.

7. Create a building scale that does not overwhelm the neighborhood.

8. Be usable by people of all ages, abilities, and needs to the greatest extent possible, without the need for adaptation or specialized design.

Policy H-4.1 Implement green building principles in the design and construction of housing and related infrastructure, in conformance with the Green Building Goals and Policies in the Envision General Plan and in conformance with the City's Green Building Ordinance.

Policy H-4.2 Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency

4.14.4 Impact Discussion

a) Induce substantial unplanned population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?

(**No Impact**)

The proposed project includes 79 residential units, resulting in an increase of approximately 252 people to the City's population. However, the proposed project is consistent with the uses allowed by the Urban Village Plan and contributes 79 residential units to the development potential identified in the Urban Village Plan. The project site is located in an established urban area, has direct access to the roadway and utility infrastructure located on S. Redwood Avenue, Hemlock Avenue, and S. Baywood Avenue. Therefore, the proposed project would not induce population growth that is not already planned for in the Urban Village Plan.

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

(**No Impact**)

The project site includes three residences, which would be demolished with implementation of the proposed project. However, 79 residential condominium units will be constructed on site and, therefore, construction of replacement housing elsewhere would not be required.

4.15 PUBLIC SERVICES

4.15.1 Public Services Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:					1,3,4,9, 10,33, 51,57
- Fire Protection?	☐	☐	☐	☒	
- Police Protection?	☐	☐	☐	☒	
- Schools?	☐	☐	☒	☐	
- Parks?	☐	☐	☒	☐	
- Other Public Facilities?	☐	☐	☒	☐	

4.15.2 Environmental Setting

San José Fire Department

Fire protection services to the project site are provided by the San José Fire Department. The San José Fire Department responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The San José Fire Department senior command structure consists of a Fire Chief, an Assistant Fire Chief, three Deputy Chiefs, and three Deputy Directors. There are currently 33 active fire stations in the City. The fire station nearest to the project site is Station #10, approximately one-quarter mile southeast of the site.

San José Police Department

Police protection services for the project site are provided by the San José Police Department. The San José Police Department is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the San José Police Department Western Division. The officers are dispatched from the police headquarters located at 201 West Mission Street, located approximately three miles northeast of the project site.

Schools

According to the City's Public View GIS, the project site is within the Campbell Union High and Campbell Union Elementary School Districts (City of San José 2020). The schools within these two districts that are nearest to the project site are:

- Lynhaven Elementary School, approximately 1.04 miles southwest;
- Monroe Middle School, approximately 0.88 miles south; and
- Del Mar High School, approximately 1.4 miles southeast.

Parks and Trails

According to the City's General Plan EIR, the City provides and maintains developed parkland and open space to serve its residents. The City's Departments of Parks, Recreation, and Neighborhood Services are responsible for the development, operation, and maintenance of all City park facilities. According to the City's Public GIS Viewer, the nearest park to the project site is the Frank M Santana Park, located approximately 0.22 miles south of the project site.

According to the General Plan EIR Figure 3.9-4, the nearest trail to the project site is the Los Gatos Creek Trail, located approximately two miles southeast of the project site.

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 23 branch libraries. The nearest public library is the Bascom Branch Library, approximately 1.2 miles southeast of the project site.

4.15.3 Regulatory Setting

State

California Government Code Section 65996 (School Facilities)

State law identifies the payment of school impact fees as an acceptable method of offsetting a project's impact on school facilities. The project applicant can either negotiate directly with the affected school districts or make a payment per square foot of multi-family units and commercial units (prior to the issuance of a building permit). The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Local

Envision San José 2040 General Plan

Chapter 4, Quality of Life, in the City's General Plan includes goals, policies and implementation actions for various public services, including education, libraries, health care, public safety (police and fire), and code enforcement. In addition, the Parks, Open Space, and Recreation Subsection of the same chapter, provides the goals, policies, and actions related to parks, open space, and recreational facilities. The following policies within the City's General Plan are germane to the proposed project (City of San José 2011):

> **Policy CD-5.5** Include design elements during the development review process that address security, aesthetics and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
>
> **Policy ES-3.1** Provide rapid and timely Level of Service response time to all emergencies:

1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.

2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.

4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community.

5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.

Policy ES-3.2 Strive to ensure that equipment and facilities are provided and maintained to meet reasonable standards of safety, dependability, and compatibility with law enforcement and fire service operations.

Policy ES-3.9 Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.

Policy ES-3.10 Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.

Policy ES-3.11 Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

Policy ES-3.17 Promote installation of fire sprinkler systems for both commercial and residential use and in structures where sprinkler systems are not currently required by the City Municipal Code or Uniform Fire Code.

Policy ES-4.9 Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.

Policy PR-1.2 Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-2.4 To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/ tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.

Quimby Act (Assembly Bill No. 1359)

The Quimby Act, which is within the Subdivision Map Act, authorizes the legislative body of a city or county to require the dedication of land or impose fees for park or recreational purposes as a condition to the approval of a tentative or parcel subdivision map, if specified requirements are met. One of these requirements is that the dedicated land or fees, or combination thereof, shall be used only for the purposes of developing or rehabilitating neighborhood or community park or recreational facilities to serve the subdivision for which the land was dedicated or fees were paid. The act provides that the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide 3 acres of park area per 1,000 persons residing within a subdivision subject to the act, except as specified.

This bill would authorize fees paid pursuant to the act to also be used for the purpose of developing or rehabilitating park or recreational facilities in a neighborhood other than the neighborhood in which the subdivision for which fees were paid as a condition to the approval of a tentative map or parcel map is located, if certain requirements are met. The bill would require the legislative body to hold a public hearing before using fees as prescribed in the bill. This bill also would authorize the use of joint or shared use agreements to facilitate access to park or recreational facilities for residents in specified areas.

City Municipal Code - Chapter 19.38, Parkland Dedication Ordinance and Chapter 14.25, Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. These ordinances are intended to reduce the extent to which new development would exacerbate the existing shortfall of park and recreational facilities. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project would dedicate land for a new public park site or accept a fee in-lieu of land dedication.

4.15.4 Impact Discussion

a.1) Result in substantial adverse physical impacts associated with the provision of or need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

(No Impact)

The proposed project would replace three single-family homes with 79 condominium units. Therefore, the proposed project would increase fire protection needs at the project site.

As reported in the General Plan EIR (page 610), according to current Fire Department protocols, fires in structures four stories or taller in height will require responses from more than one fire station. The San José Fire Department's Fire Station #10 is located approximately

0.26 miles southeast of the project site and Fire Station #4 is located approximately 1.4 miles southeast of the project site. Construction of the proposed project would be required to comply with applicable Fire Code standards (City Municipal Code Chapter 17.12).

The general plan EIR (page 612) evaluated the need for new fire stations with buildout of the General Plan and concluded that implementation of the general plan would result in an increase in calls for fire protection services but would not result in the need for construction of fire stations in excess of those currently planned. The proposed project is consistent with the General Plan densities for the project site and therefore, would not result in the need for construction of fire stations in excess of those currently planned.

a.2) Result in substantial adverse physical impacts associated with the provision of or need for new or physically altered police protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

(No Impact)

The proposed project would replace three single-family homes with 79 condominium units. Therefore, the proposed project would increase police protection needs at the project site.

The San José Police Department headquarters that currently serve the project site is located approximately three miles northeast. As reported in the General Plan EIR (page 612), police services would continue to be dispatched from police headquarters and no additional stand-alone police facilities are anticipated. The General Plan EIR (page 613) evaluated the need for new police stations with buildout of the General Plan and concluded that implementation of the general plan would result in an increase in calls for police protection services and may require the need for expansion of existing police facilities or the location of new facilities within planned growth areas. Construction of new police facilities would require supplemental environmental review, but is not anticipated by the General Plan EIR to have significant adverse environmental impacts.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. The increase in police service needs by the proposed development represents a small fraction of the total growth identified in the General Plan, which anticipated the type of development proposed at this location. The proposed project, by itself, would not preclude the San José Police Department from meeting their service goals and would not require the construction of new or expanded police facilities. Therefore, the proposed project would not significantly impact police protection services or require the construction of new or remodeled facilities.

a.3) Result in substantial adverse physical impacts associated with the provision of or need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

(Less than Significant)

Two school districts serve the project site: Campbell Union Elementary School District, which serves preschool through eighth grade, and the Campbell Union High School District, which serves grades nine through twelve.

The proposed project would result in the generation of new students. The Campbell Union Elementary School District uses a student generation rate of 0.5 students per multi-family dwelling unit (Christina Tran, email message, August 4, 2020) and the Campbell Union High School District uses a student generation rate of 0.0906 students per multi-family dwelling unit (Cooperative Strategies 2018, p. 11). The Director of Fiscal Services for the Campbell Union High School District confirmed that the 2018 study with student generation information is the most recent information (Rory Cox, email message, January 27, 2020).

Table 11, Student Generation, presents an estimate of the number of students that would be generated by the proposed project.

Table 11 Student Generation

Proposed Project	Campbell Union Elementary School District (K-8)	Campbell Union High School District (9-12)	Total Students
79 units	0.5 x 79 units = 40	0.0906 x 79 units = 7	47

SOURCES: (Cooperative Strategies 2018), (Christina Tran, email message, August 4, 2020)
NOTE: Numbers are rounded

The proposed project would generate approximately 47 students for the two applicable school districts, which would not require construction of a new school. However, cumulative development within the school districts' boundaries could result in the need for new schools or expansion of existing schools. In accordance with Senate Bill 50, the project developer would be required to pay development impact fees to each affected school district at the time of the building permit issuance. The school districts would use collected funds towards new facilities to offset any impacts associated with new the development. Pursuant to California Government Code Section 65996, payment of these fees is deemed to fully mitigate cumulative CEQA impacts of new development on school facilities. Therefore, payment of state-mandated impact fees would reduce the project project's potentially cumulatively considerable environmental impacts on school facilities to a less-than-significant level. No additional mitigation is required.

a.4 and a.5) Result in substantial adverse physical impacts associated with the provision of or need for new or physically altered park or other governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

(Less than Significant)

Due to the proposed project's increase in population, an increase in the use of nearby parks may occur. According to the City's Public GIS Viewer, the nearest park to the project site is the Frank M Santana Park, located approximately 0.22 miles south of the project site. According to the General Plan EIR Figure 3.9-4, the nearest trail to the project site is the Los Gatos Creek Trail, located approximately two miles southeast of the project site.

Please refer to Section 4.16, Recreation, for information related to the proposed project's potential impacts on the City's parks and recreational facilities.

4.16 RECREATION

4.16.1 Recreation Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐	1,3,4,5
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	☐	☐	☒	☐	1,3,4,5

4.16.2 Environmental Setting

According to the General Plan EIR's Table 3.9-5, as of 2011, the City and other Citywide/Regional Parkland acreage results in a combined total of 17,348.5 (inclusive of 1,848.5 acres of City-owned regional parkland). As a result, the City was in a surplus of over 7,000 acres of parkland with regard to the General Plan goal of 7.5 acres per 1,000 population for citywide/regional parklands within the City's boundaries.

According to the City's General Plan EIR, the City provides and maintains developed parkland and open space to serve its residents. The City's Departments of Parks, Recreation, and Neighborhood Services are responsible for the development, operation, and maintenance of all City park facilities. According to the City's Public GIS Viewer, the nearest park to the project site is the Frank M Santana Park, located approximately 0.22 miles south of the project site.

According to the General Plan EIR Figure 3.9-4, the nearest trail to the project site is the Los Gatos Creek Trail, located approximately two miles southeast of the project site.

4.16.3 Regulatory Setting

Envision San José 2040 General Plan

The following General Plan policies are germane to the proposed project:

> **Policy PR-1.2** Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
>
> **Policy PR-2.4** To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/ tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.

4.16.4 Impact Discussion

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

(**Less than Significant**)

The proposed project includes the development of a new mixed-use building, with an increase in the population of approximately 252 people based on the 79 proposed dwelling units and an average of 3.19 persons per household (79 condominiums x 3.19 persons per household).

The proposed project would be required to provide approximately 1.9 acres of public parkland, according to the General Plan goal of 7.5 acres per 1,000 population for citywide/regional parklands within the City's boundaries. The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which requires residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The project would be required to comply with the City's park ordinances, which would offset impacts to park/recreation facilities. Therefore, proposed project is responsible for the payment of impact fees as calculated by the City. Payment of the applicable park and recreation impact fees would reduce the proposed project's impact on existing neighborhood and regional parks to a less-than-significant level.

4.17 TRANSPORTATION/TRAFFIC

4.17.1 Transportation/Traffic Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☒	☐	1,52
b) Conflict or be inconsistent with CEQA guidelines section 15064.3, subdivision (b)?	☐	☐	☒	☐	1,52
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒	1,52
d) Result in inadequate emergency access?	☐	☐	☐	☒	1,52

4.17.2 Environmental Setting

The *Baywood Condominium Mixed-Use Development – Transportation Analysis* (transportation analysis) was conducted for this project to determine the potential traffic impacts related of the project based on the standards and methodologies set forth by the cities of San Jose and Santa Clara and the Santa Clara Valley Transportation Authority (VTA). The VTA administers the County Congestion Management Program (CMP). The project's transportation analysis is included in Appendix G.

The project site is located within the adopted *Santana Row/Valley Fair Urban Village Plan* (Urban Village). According to the General Plan, the Urban Village strategy fosters:

- Mixed residential and employment activities attractive to an innovative work force;
- Revitalization of underutilized properties that have access to existing infrastructure;
- Densities that support transit use, bicycling, and walking; and
- High-quality urban design.

Existing Roadway Network

Regional access to the project site is provided via I-880 and I-280. These facilities are described below:

- **I-880** is a six-lane freeway in the vicinity of the site. It extends north to Oakland and south to I-280 in San Jose, at which point it makes a transition into SR 17 to Santa Cruz. Access to the site is provided via its interchange with Stevens Creek Boulevard.

- **I-280** is an eight-lane freeway in the vicinity of the site. It extends northwest to San Francisco and east to King Road in San Jose, at which point it makes a transition into I-680 to Oakland. North of I-880, I-280 has high occupancy vehicle (HOV) lanes in both directions. Access to and from northbound and southbound I-280 to the site is provided via its interchanges with Winchester Boulevard and Stevens Creek Boulevard, respectively.

Local access to the site is provided by Stevens Creek Boulevard, Winchester Boulevard, Monroe Street, Tisch Way, Hatton Street, Redwood Avenue, and Baywood Avenue. These roadways are described below:

- **Stevens Creek Boulevard** is a divided six-lane east-west roadway in the vicinity of the project site and designated as a Grand Boulevard in the Envision San Jose 2040 General Plan. It extends from Cupertino eastward to I-880, at which point it makes a transition into San Carlos Street to Downtown San Jose. In the project vicinity, Stevens Creek Boulevard has a posted speed limit of 35 mph with sidewalks on both sides of the street and no bike lane. Access to the site from Stevens Creek Boulevard is provided via its intersections with Redwood and Baywood Avenues.

- **Winchester Boulevard** is a divided six-lane north-south roadway that runs from Los Gatos to Lincoln Street in Santa Clara and designated as a Grand Boulevard in the Envision San Jose 2040 General Plan. In the project vicinity, Winchester Boulevard has a posted speed limit of 35 mph with sidewalks on both sides of the street and on-street bike lanes between I-280 and Stevens Creek Boulevard. Winchester Boulevard provides access to the project site via its intersection with Stevens Creek Boulevard to Redwood and Baywood Avenues.

- **Monroe Street** is a two-lane north-south roadway that extends northward from Tisch Way to Santa Clara. In the project vicinity, Monroe Street has a posted speed limit of 30 mph with sidewalks on both sides of the street and bike lanes between Tisch Way and Forest Avenue. Access to the project site from Monroe Street is provided via Stevens Creek Boulevard to Baywood Avenue.

- **Tisch Way** is a two-lane east-west roadway that extends eastward from Winchester Boulevard to Monroe Street. Tisch Way has sidewalks on only the north side of the street with no bike lanes. Access to the project site from Tisch Way is provided via Hatton Street.

- **Hatton Street** is a two-lane north-south roadway that extends from Tisch Way to Hemlock Avenue. Access to the project site is provided via a full-access driveway at intersection Hatton Street/Hemlock Avenue.

- **Redwood Avenue** is a two-lane north-south roadway that runs between Stevens Creek Boulevard and Baywood Avenue. Access to the project site from Redwood Avenue is provided via Hemlock Avenue to Baywood Avenue.

- **Baywood Avenue** is a two-lane north-south roadway that runs between Redwood Avenue and Stevens Creek Boulevard. Baywood Avenue provides direct access to the project site via a full-access driveway.

Existing Bicycle, Pedestrian, and Transit Facilities

Bicycle Facilities. Class II Bikeway (Bike Lane): Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the following roadway segments:

- Winchester Boulevard, between Stevens Creek Boulevard and Tisch Way;
- Monroe Street, along the entire length of the street in the project vicinity;
- Stevens Creek Boulevard, between Monroe Street and Di Salvo Avenue;
- Moorpark Avenue, between Thornton Way and San Tomas Expressway; and
- Forest Avenue, between Winchester Boulevard and Forest Avenue.

Although none of the residential streets near the project site provide bike lanes or are designated as bike routes, due to their low traffic volumes, many of them are conducive to bicycle usage. The existing bicycle facilities are shown in Figure 7 of the transportation analysis.

The following bicycle facilities, relevant to the proposed project, are planned for within the *San Jose Bike Plan 2020*:

Class II bike lanes planned for:

- Moorpark Avenue, between Thornton Way and College Drive;
- Winchester Boulevard, between Moorpark Avenue and Payne Avenue; and
- Tisch Way, between Winchester Boulevard and Monroe Street.

Class III bike routes planned for:

- Olin Drive, between Winchester Boulevard and Hanson Avenue; and
- Olsen Drive, between Winchester Boulevard and terminus of Olsen Drive.

Pedestrian Facilities. Pedestrian facilities in the project area consist primarily of sidewalks along all surrounding streets. Sidewalks are found along virtually all previously described local roadways in the study area and along the local residential streets and collectors near the site. At the Monroe Street and Tisch Way intersection, there is a pedestrian footbridge over I-280 connecting Monroe Street/Tisch Way and Moorpark Avenue. Crosswalks across Stevens Creek Boulevard are provided near the project site at its intersections with Monroe Street, the Valley Fair entrance, and at Santana Row. The Valley Fair entrance intersection with Stevens Creek Boulevard will be relocated to align with Baywood Avenue as part of the Valley Fair Mall expansion project. The new intersection will provide a controlled crossing point between the project site and amenities provided at Valley Fair Mall. Overall, the existing network of sidewalks and crosswalks provide good connectivity and provide pedestrians with safe routes to transit services and other points of interest in the area.

Transit Facilities: The nearest bus stop location is located at the Stevens Creek Boulevard and Santana Row intersection, approximately 1,000 feet from the project site and is served by Frequent Routes 23 and 523. Other bus stops approximately ¼ of a mile from the project site include those at the intersections of Stevens Creek Boulevard and Winchester Boulevard, Olin Avenue and Winchester Boulevard, and Olsen Drive and Winchester Boulevard. The bus stops on Stevens Creek Boulevard are served by Frequent Routes 23 and 523, while the bus stops on Winchester Boulevard are served by Frequent Routes 25 and 60. The Valley Fair Transit Center is located approximately within ½ of a mile of the project site at the adjacent Westfield Valley Fair shopping center, along Forest Avenue. The Valley Fair Transit Center is served by Local Route 59 and Frequent Route 60. Frequent Routes 23 and 523 connect to other services such as Caltrain, VTA LRT, and ACE in downtown San Jose. The existing transit services in the project vicinity are summarized in Table 2 of the transportation analysis and shown in Figure 8 of the transportation analysis.

Intersection Evaluation Scenarios

Intersection operations conditions were evaluated by the transportation analysis for the following scenarios:

- **Existing Conditions**. Existing AM and PM peak hour traffic volumes at all study intersections were obtained from the City of San Jose, the CMP, previously completed traffic studies, and supplemented with new turning-movement counts.

- **Background Conditions**. Background traffic volumes were estimated by adding to existing peak hour volumes the projected volumes from approved but not yet completed developments. The approved project traffic was provided by the City of San Jose in the form of the Approved Trips Inventory (ATI) and by the City of Santa Clara in the form of a list of projects.

- **Background Plus Project Conditions**. Background plus project conditions reflect projected traffic volumes on the planned roadway network with completion of the project and approved developments. Background traffic volumes with the project were estimated by adding to background traffic volumes the additional traffic generated by the project.

- **Cumulative Conditions**. Cumulative traffic volumes reflect projected traffic volumes on the planned roadway network with completion of the pending developments in the area as well as the proposed project and approved developments. Lists of pending projects in the vicinity was provided by the Cities of San Jose and Santa Clara.

4.17.3 Regulatory Setting

State

State Senate Bill 743

Senate Bill (SB) 743 was signed into law by Governor Brown in 2013 and tasked the State Office of Planning and Research (OPR) with establishing new criteria for determining the significance of transportation impacts under the California Environmental Quality Act (CEQA). SB 743 requires the new criteria to "promote the reduction of greenhouse gas emissions, the development of

multimodal transportation networks, and a diversity of land uses." It also states that alternative measures of transportation impacts may include "vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated."

Regional/Local

City Council Policy 5-1

With the adoption of SB 743 legislation, public agencies are now required to base the determination of transportation impacts on Vehicle Miles Traveled (VMT) rather than level of service. In adherence to SB 743, the City has adopted a new Transportation Analysis Policy, Council Policy 5-1. The policy replaces its predecessor (Policy 5-3) and establishes the thresholds for transportation impacts under the CEQA based on vehicle miles traveled (VMT) instead of levels of service (LOS). The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway auto capacity to a reduction in vehicle emissions, and the creation of robust multimodal networks that support integrated land uses. The new transportation policy aligns with the currently adopted General Plan which seeks to focus new development growth within Planned Growth Areas, bringing together office, residential, and supporting service land uses to internalize trips and reduce VMT. All new development projects are required to analyze transportation impacts using the VMT metric and conform to Council Policy 5-1.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. The VMT policy does not negate Area Development policies (ADPs) and Transportation Development policies (TDPs) approved prior to adoption of Policy 5-1. Policy 5-1 does, however, 3896 Stevens Creek Boulevard 144 Draft EIR City of San José August 2020 negate the City's Protected Intersection policy as defined in Policy 5-3. Under Policy 5-1, the screening criteria are:

- Small Infill Projects;
- Local-Serving Retail;
- Local-Serving Public Facilities;
- Transit Supportive Projects in Planned Growth Areas with Low VMT and High-Quality Transit;
- Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High Quality Transit; and
- Transportation Projects that reduce or do not increase VMT.

Regional Transportation Plan/Sustainable Communities Strategy

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017,

which includes the region's Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by CARB) and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources over the next 24 years).

Congestion Management Program

In accordance with California Statute, Government Code Section 65088, Santa Clara County has established a Congestion Management Program (CMP). The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions that will reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency for Santa Clara County and maintains the county's CMP.

Congestion management agencies are required by the state statute to monitor roadway traffic congestion and the impact of land use and transportation decisions on a countywide level, at least every two years. VTA conducts CMP monitoring and produces the CMP Monitoring & Conformance Report annually for freeways, rural highways, and CMP-designated intersections. Legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes the five mandatory elements and three other elements: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element. The VTA has review responsibility for proposed development projects expected to affect CMP designated intersections. According to the County's CMP Figure 2.3, there are several CMP designated intersections near to the project site.

San José Better Bike Plan 2025

The City's first on-street bike lanes were installed in the 1970s. Since then, the City has built over 320 miles of on-street bikeways and 59 miles of trails. Changes in transportation and land use have created opportunities for a more viable biking environment in San José. The City is leveraging these opportunities to create a world-class bicycle network. This Plan will also build on the City's long-term General Plan (Envision San José 2040) goals for providing space for infill and transit-oriented development, creating accessible public spaces, and weaving urban villages into the fabric of the larger city through the Urban Villages program.

Envision San José 2040 General Plan

Chapter 6, Land Use and Transportation, of the City's General Plan includes the Circulation Element, which defines a set of balanced, long-range, multi-modal transportation goals and policies that provide for a safe, efficient, and sustainable transportation network. The following polices related to transportation are germane to the proposed project:

> **Policy TR-1.1** Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).

Policy TR-1.2 Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

Policy TR-1.4 Through the entitlement process for new development fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

Policy TR-1.5 Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

Policy TR-1.6 Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

PolicyTR-2.8 Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

Policy TR-3.3 As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Policy TR-5.3 Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.

- Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.

Policy TR-8.4 Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

Policy TR-8.6 Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management (TDM) program, or developments located near major transit hubs or within Villages and Corridors and other growth areas

Policy TR-8.7 Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments

Policy TR-9.1 Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

Policy CD-3.3 Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Policy PR-8.5 Encourage all developers to install and maintain trails when new development occurs adjacent to a designated trail location. Use the City's Parkland Dedication Ordinance and Park Impact Ordinance to have residential developers build trails when new residential development occurs adjacent to a designated trail location, consistent with other parkland priorities. Encourage developers or property owners to enter into formal agreements with the City to maintain trails adjacent to their properties.

4.17.4 Impact Discussion

a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

(**Less Than Significant**)

I-280/Winchester Boulevard Interchange Area Transportation Development Policy

This policy provides for additional capacity in the immediate area of the I-880/Stevens Creek Boulevard and I- 280/Winchester Boulevard interchanges. The TDP was completed for the purpose of managing existing traffic congestion in the I-880/Stevens Creek and I-280/Winchester interchange areas as well as provide additional traffic capacity to accommodate future development such as the proposed project. The I-880/Stevens Creek and I-280/Winchester interchanges serve as the primary access points to regional freeway facilities in the project area. As such, the Stevens Creek Boulevard and Winchester Boulevard corridors that serve the I-880/Stevens Creek and I-280/Winchester interchanges currently experience traffic congestion during the peak commute hours. The corridors include two Protected Intersections that are currently and projected to continue to operate well below the City's standard Level of Service Policy. There are no further vehicular capacity improvements available at the intersections.

This Policy provides partial funding, via a traffic impact fee imposed on proposed development, for the implementation of a new westbound off-ramp from I-280 to Winchester Boulevard to reduce traffic congestion at the I-880/Stevens Creek and Stevens Creek Boulevard corridors. The traffic fee is based on the estimated trips to be added to the new westbound off-ramp from I-280 to Winchester Boulevard by each individual development. It is estimated that the proposed project would result in the addition of three PM peak hour trips to the planned I-280 to Winchester Boulevard ramp.

Pedestrian Facilities

Pedestrian traffic primarily would consist of residents and employees of the proposed development walking to and from surrounding retail establishments, as well as bus stops on Stevens Creek Boulevard and Winchester Boulevard. Crosswalks with pedestrian signal heads are located at all signalized intersections in the study area. All of the roadways in the vicinity of the project site have sidewalks on both sides of the street.

Transit Services

The project site is adequately served by the existing VTA transit services. The nearest bus stop to the project site are located at the Stevens Creek Boulevard and Santana Row intersection, approximately 1,000 feet from the project site. The Valley Fair Transit Center is located approximately one-half a mile of the project site at the adjacent Westfield Valley Fair shopping center, along Forest Avenue. VTA operations reports indicate that the bus lines in the project area serve less than ideal ridership. Therefore, the new riders due to the proposed project could be accommodated by the current available capacity of the bus service in the study area and improvement of the existing transit service would not be necessary with the project.

Freeway Segment Evaluation

Pursuant to the Congestion Management Plan technical guidelines, freeway segment level of service analysis shall be conducted on all segments to which the project is projected to add one percent or more to the segment capacity. Since the project is not projected to add one percent or higher to any freeway segments in the area, freeway analysis for the Congestion Management Plan was not required.

Site Access and Circulation

The driveways on Baywood Avenue and Hemlock Avenue are shown to be 26 feet wide. According to the City of San Jose Municipal Code, on-site drive aisles that serve two-way drive aisles should be 26 feet wide and driveway widths should match the 26 feet wide drive aisles. Therefore, the project's driveways and drive aisles will meet the City's requirements. The transportation analysis includes the following recommendations:

- It is recommended that the parking spaces located at the end of the dead-end aisle be assigned parking and should be provided at the end of the dead end-aisles to allow vehicles to back out from these spaces and exit.

- In lieu of providing off-street loading spaces, it is recommended that the project applicant work with City staff to determine the feasibility of providing a public loading zone on Baywood Avenue along the project frontage. The City will determine the location of the loading zone during the implementation phase. FLZ or PLZ can be considered outside the hours of 6PM to 7AM on weekdays and anytime on weekends and holidays.

- Trash bins will need to be wheeled out to Baywood Avenue for garbage truck pickup or the trash enclosures should be relocated to a loading area along the building frontage near the parking garage entrance on Baywood Avenue.

Although the proposed project would result in the addition of three PM peak hour trips to the planned I-280 to Winchester Boulevard ramp and the transportation analysis has recommended several items in relation to site circulation and access, operation of the proposed project would not substantially conflict with a program, plan, ordinance, or policy addressing the circulation system.

b) Conflict or be inconsistent with CEQA guidelines section 15064.3, subdivision (b)?

(**Less than Significant**)

The City's VMT methodology includes screening criteria that are used to identify types, characteristics, and/or locations of projects that would not exceed the CEQA thresholds of significance. If a project or a component of a mixed-use project meets the screening criteria, it is then presumed that the project or the component would result in a less-than-significant VMT impact and a VMT analysis is not required.

The City of San José Council Policy 5-3 "Transportation Impact Policy" was the adopted threshold for CEQA traffic impacts at the onset of the transportation study for the project. The City has subsequently adopted a Council Policy 5-1 that is based on vehicle miles traveled (VMT) and establishes the current thresholds for transportation impacts under CEQA based on VMT rather than intersection level of service (also known as LOS). The policy has pipeline provisions (under the Applicability of the Policy) that state only development projects with a complete application on file with the City on or after the effective date are required to comply with Council Policy 5-1. The proposed project is subject to Policy 5-1 and, therefore, the transportation analysis was prepared to provide the project-level VMT analysis.

The City's Transportation Policy identifies an impact threshold of 15 percent below the citywide average per capita VMT of 11.91 and regional average per employee VMT of 14.37. Thus, the proposed project would result in a significant impact if it results in VMT that exceeds per capita VMT of 10.12 and per employee VMT of 12.21.

The transportation analysis provides the VMT evaluation for the proposed residential and office components and determined the following. This information can also be found on pages 25 and 26 of the transportation analysis.

Residential Component Screening:

- The project site is located within the *Santa Row/Valley Fair Urban Village Plan,* meeting the planned growth area requirement;
- The project site is located approximately 1,000 feet from bus stops serving VTA bus Frequent Routes 23 and 523 near the intersection of Santana Row and Stevens Creek Boulevard, meeting the requirement for high-quality transit;
- The project site is located within the *Santa Row/Valley Fair Urban Village Plan* with low VMT per capita (8.52 compared to the threshold VMT per capita of 10.12 for residential uses), meeting the low VMT requirement;

- The project proposed a total of 79 residential units on the 0.44-acre project site with a density of 179 units per acre, exceeding the required minimum of 35 units per area under the transit-supporting project density requirement;

- The project site proposes a total of 73 parking spaces for the proposed residential units, which is less than the required 97 spaces for residential uses within an urban village, meeting the parking requirement; and

- The proposed project is not anticipated to have negative impacts to transit, bike or pedestrian infrastructure, meeting the active transportation requirement.

The residential and office components would meet the screening criteria for VMT analysis exemption as a residential project located within a Planned Growth Area with low VMT and near high-quality transit and small office infill of 10,000 square-feet or less, respectively.

For informational purposes, the transportation analysis additionally determines that the project would generate 8.40 VMT per capita and 11.77 VMT per employee, both of which are below the established thresholds. Therefore, the proposed project would result in a less than significant VMT impact based on the City's VMT impact criteria.

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

(No Impact)

The project is consistent with the General Plan and zoning designations for the site. During the development review process, the vehicle circulation on the project site is reviewed by City staff to assure that access is not hazardous and complies with the City's regulations and policies.

A driver exiting the proposed project driveways must be able to see 150 feet in either direction along both Baywood and Hemlock Avenues (Hexagon Transportation Consultants 2020, p. 50). Adequate sight distance to the north along Baywood Avenue would be provided from the project driveway. The location of the parking garage entrance would not provide the recommended sight distance to the south on Baywood Avenue. However, give that vehicles must slow down when traversing the 90-degree curve from Hemlock Avenue to Baywood Avenue, the required stopping sight distance to the south would be reduced and, therefore, the proposed garage entrance would also have adequate stopping sight distance to the south on Baywood Avenue. The proposed garage entrance on Hemlock Avenue would also have adequate stopping sight distance in both directions on Hemlock Avenue (p. 50).

d) Result in inadequate emergency access?

(No Impact)

The project includes a Fire Hydrant Plan (Sheet C2.1), which includes the project's requirement for compliance with the California Fire Code. The project also proposes to install all fire department aerial access, water mains, and hydrants in accordance with the California Fire Code and all other applicable standards. Emergency vehicle aerial access to the project

site can be found via Hemlock Avenue and two new fire hydrants, along with accompanying fire department connections, are proposed on S. Baywood and S. Redwood Avenues; a new fire service is also proposed fronting Hemlock Avenue. Final plans would be reviewed by the City to assure that the project adheres to all California Fire Code requirements. Therefore, the project would not result in inadequate emergency access.

Non-CEQA Effects:

The level of service (LOS) analysis was performed to determine whether the proposed project would conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities, including but not limited to Policy TR-5.3 regarding acceptable levels of service.

Project Trip Generation

The transportation analysis estimates that the project would generate a total of 448 daily vehicle trips, with 34 trips (14 inbound and 20 outbound) occurring during the AM peak hour and 40 trips (20 inbound and 20 outbound) occurring during the PM peak hour.

Intersection Operations

The following intersections were reviewed and analyzed for the transportation analysis:

1. Winchester Boulevard and Stevens Creek Boulevard*
2. Santana Row and Stevens Creek Boulevard
3. Baywood Avenue/Valley Fair Entrance and Stevens Creek Boulevard
4. Monroe Street and Stevens Creek Boulevard
5. I-880 SB Ramps and Stevens Creek Boulevard*
6. I-880 NB Ramps and Stevens Creek Boulevard
7. Winchester Boulevard and I-280 WB on-ramp/Tisch Way
8. Redwood Avenue and Stevens Creek Boulevard (Unsignalized)

** Denotes City Congestion Management Program Intersections*

The transportation analysis determined that the intersection of Winchester Boulevard/Stevens Creek Boulevard and Monroe Street/Stevens Creek Boulevard are projected to operate at LOS E or F during the PM peak hour under background conditions, background plus project conditions, cumulative no project conditions, and cumulative plus project conditions. However, the transportation analysis determined that based on the City's guidelines, trips as a result of the proposed project would not have an adverse effect on intersection operations at either of these two study intersections (p. 45). The remaining study intersections listed above are projected by the transportation analysis to operate at acceptable levels of service, based on City intersection operations standard LOS D, under background conditions, background plus project conditions, and cumulative plus project conditions during both the AM and PM peak hours.

Bicycle Facilities

The proposed project is required to provide a total of 23 bicycle parking spaces in accordance with the City's Bicycle Parking Standards (Chapter 20.90, Table 20-210). The City's standards indicate that of the 23 required bicycle spaces, the project would need to provide 9 short-term and 11 long-term bicycle spaces. The proposed project includes bicycle storage areas to accommodate 37 bicycles within the basement level of the parking garage. Therefore, the proposed bicycle parking onsite would exceed the City's requirements and encourage the use of non-auto modes of travel and minimize the demand for onsite parking (p. 57).

Currently, there is no bike link between the project site and other existing bike facilities in the area. However, the planned improvements to the bicycle network in the San Jose Bike Plan 2020 and the General Plan would provide the project site with improved connections to surrounding bike facilities as outlined in the General Plan goals and policies (p. 59). There are bike lanes provided along Winchester Boulevard, between Stevens Creek Boulevard and I-280, and Monroe Street; bikeways within the vicinity of the project site would remain unchanged under project conditions (p. 66).

Motorcycle Facilities

The proposed project is required to provide 21 motorcycle parking spaces pursuant to the City's Motorcycle Parking Standards (Chapter 20.90, Table 20-250). The proposed project includes a total of 26 motorcycle parking spaces within the parking garage and, therefore, exceeds the City's requirement (p. 57).

Parking Supply

Based on the City's parking requirements and the uses proposed by the project, the proposed project would be required to provide a total of 155 parking spaces. The proposed project includes 98 parking spaces. Therefore, the proposed project provides 37 percent less than the City's standard onsite parking requirement. The project site's location within the *Santa Row/Valley Fair Urban Village Plan* allows for a reduction for vehicle parking. Therefore, the vehicle parking requirement would be reduced to a total of 124 parking spaces. With this reduction, the project still requires an additional 17 percent reduction in the onsite parking spaces provided (p. 56).

The transportation analysis indicates that the additional 17 percent reduction could be allowed with the implementation and maintenance of a transportation demand management plan, included as Appendix H of the transportation analysis, in accordance with the City's code section 20.90.220. In addition, the transportation analysis indicates that the proposed project complies with the state's building code related to Americans with Disabilities Act requirements for parking spaces.

Transportation Demand Management Plan

The proposed project includes a Transportation Demand Management Plan (located in Appendix H of the transportation analysis), which includes measures to be implemented by the project. These measures are briefly discussed under Section 3.0, Project Description, of this initial study and more detailed information can be found in the transportation analysis.

Implementation of the measures outlined in the project's Transportation Demand Management Plan would help the project meet its additional 17 percent reduction for parking spaces onsite.

Surrounding On-Street Parking

The project site is located within the Santana Residential Parking Program zone, where a permit is required to use on-street parking from 6PM to 7AM on weekdays and anytime on weekends and holidays. With the implementation of the required transportation demand management plan, included in Appendix H of the transportation analysis, the proposed project would provide adequate parking spaces on site to satisfy its parking demand and would not have an effect on the Santana Residential Parking Program.

Circulation System Summary and Recommendations

With implementation of the following recommendations, the proposed project would reduce its impacts related to conflicting with City requirements and standards in place to address the circulation system to a less-than-significant level.

Recommendations

The proposed project shall implement all recommendations identified in the transportation analysis prepared by Hexagon Transportation Consultants in July 2020, inclusive of the transportation demand management plan; these recommendations are provided below. The project proponent is required to show proof of compliance to these recommendations on project plans with review and approval by both the Planning and Building Departments prior to the issuance of a grading permit.

The transportation analysis includes the following recommendations:

a. It is recommended that the parking spaces located at the end of the dead-end aisle be assigned parking and should be provided at the end of the dead end-aisles to allow vehicles to back out from these spaces and exit.

b. In lieu of providing off-street loading spaces, it is recommended that the project applicant work with City staff to determine the feasibility of providing a public loading zone on Baywood Avenue along the project frontage. The City will determine the location of the loading zone during the implementation phase. FLZ or PLZ can be considered outside the hours of 6PM to 7AM on weekdays and anytime on weekends and holidays.

c. Trash bins will need to be wheeled out to Baywood Avenue for garbage truck pickup or the trash enclosures should be relocated to a loading area along the building frontage near the parking garage entrance on Baywood Avenue.

With implementation of the above recommendations, the proposed project would reduce the conflict with the City's existing requirements and standards addressing its circulation system to a less-than-significant level by requiring the project proponent to illustrate to both the City's Planning and Building Departments its compliance with all recommendations outlined in the transportation analysis prepared for the proposed project prior to the issuance of a grading permit.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Tribal Cultural Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources code section 5020.1(k), or	☐	☐	☒	☐	1,3,4
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐	1,3,4

4.18.2 Setting

As of July 1, 2015, California Assembly Bill 52 of 2014 (AB 52) was enacted and expands CEQA by defining a new resource category, "tribal cultural resources." AB 52 establishes that "A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment" (PRC Section 21084.2). It further states that the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3).

PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe" and is:

1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying these criteria, the lead agency shall consider the significance of the resource to a California Native American tribe.

AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. Under AB 52, lead agencies are required to "begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project." Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in the consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. No tribes have sent written requests for notification of projects to the City of San José.

Tribal Cultural Resource (PRC § 20173, 21074, 21080.3.1 and 21084.3). For purposes of CEQA, Public Resources Code Sections 21073 and 21074 define "California Native American tribe" and "tribal cultural resources." A California Native American tribe is defined as a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission.

(a) Tribal cultural resources are defined as:

1. Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

    a. Included or determined to be eligible for inclusion in the California Register of Historical Resources.

    b. Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

Public Resources Code § 21080.3.1 provides guidance for tribal consultation. Specifically, prior to the public release of a CEQA document, the lead agency must consult with any California Native American tribe if: (1) the California Native American tribe has submitted a written request to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe; and (2) the California Native American tribe provides a written response requesting consultation within 30 days of receipt of the formal notification.

The Native American Heritage Commission would help the lead agency identify California Native American tribes that are traditionally and culturally affiliated with the project area. Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to traditionally and culturally affiliated California Native American tribes that have requested notice. The written notice would include a brief description of the proposed project, project location, lead agency contact information, and a 30 day notice for the California Native American tribe to request consultation. The tribal consultation process must begin within 30 days of receiving the written consultation request from the California Native American tribe.

4.18.3 Impact Discussion

1) Would the project cause a substantial adverse change in the significance of a tribal cultural resources as defined in Public Resources Code 21074 that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources code section 5020.1(k)?

2) Would the project cause a substantial adverse change in the significance of a tribal cultural resources as defined in Public Resources Code 21074 that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

(**Less Than Significant**)

In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone tribe has expressed interest to the City on projects located downtown; however, this project is not located downtown so consultation is not necessary. The proposed project is on a previously disturbed property in an urban setting. While there is always the potential for unknown Native American resources or human remains to be present in the project area, impacts would be less than significant with implementation of the City's standard permit conditions related to discovery of archaeological resources or human remains (refer back to Section 4.5, Cultural Resources).

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Utilities and Services Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒	1,3,4,5, 10,16, 17,18, 24,25
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐	1,4,24
c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	1,4,27
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒	1,4,18, 19,20, 21,26, 27
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	1,4,18, 19,20, 21,23, 26, 27

4.19.2 Environmental Setting

Water Service

The project site is served by the San José Water. Water resources in the City are managed by the Santa Clara Valley Water District (Valley Water), which receives its water supply from several locations including local groundwater, local surface water, and imported treated. In addition, there is a fourth and growing source of supply, non-potable recycled water. On average, groundwater from the major water-bearing aquifers of the Santa Clara Subbasin comprise one-third of the water company's potable water supply. These aquifers are naturally recharged by rainfall and streams and artificially recharged by recharge ponds operated by Valley Water. San Jose Water's source of potable water is from surface water in the local watersheds of the Santa Cruz Mountains. This surface water is sent to the Montevina Filter Plant for treatment prior to entering the distribution system (San José Water Company 2016, p. 3-2).

According to the *San Jose Water Company 2015 Urban Water Management Plan* (urban water management plan), water supply (inclusive of imported water, groundwater, and surface water) availability will increase from 35,369 million gallons per year in 2015 to approximately 55,213 million gallons in 2040 (San José Water Company 2016, Table 4-3).

Table 7-2 of the urban water management plan indicates that San Jose Water anticipates adequate water supply through 2040 under average water year conditions (p.7-5). Under a single-dry year, water supplies are sufficient to meet demands through 2035, with year 2040 resulting in a demand of 3,118 million gallons more than what the supply is (p. 7-5). Over a multiple dry year supply and demand comparison, it appears that there would be sufficient water supplies under the first year, but the water demands in the second and third year would not be adequately supplied (San José Water Company 2016, Table 7-4).

To account for potential water shortages under severe drought conditions, San Jose Water has adopted a Water Shortage Contingency Plan, which requires a staged water reduction process. The Water Shortage Contingency Plan also includes prohibitions on end uses, which would further reduce water usage (San José Water Company 2016).

According to the Conceptual Grading and Utility Plan (Sheet C2.0), an existing 10-inch water line runs along S. Baywood Avenue, an existing 6-inch water line runs along Hemlock Avenue, and the existing water line along S. Redwood Avenue converts from a 6-inch to 8-inch line from south to north.

Wastewater/Sanitary Sewer System

San Jose Water does not own or operate any wastewater treatment facilities. All sewage generated within the water company's service area is delivered to the San José/Santa Clara Regional Wastewater Facility via the City and West Valley Sanitation District collection systems (San José Water Company 2016, p. 6-3).

The City's Department of Environmental Services administers and operates the San José/ Santa Clara Regional Wastewater Facility (wastewater facility), which provides primary, secondary, and tertiary treatment of wastewater. After tertiary treatment, approximately 80 percent of the treated water is piped to the outfall channel, which then flows to Artesian Slough, through Coyote Creek, and eventually into the South San Francisco Bay. The remaining 20 percent of treated water is sent to the adjacent South Bay Water Recycling pump station to be used to irrigate crops, parks, schools, etc. (City of San José 2019).

The wastewater facility treats an average of 110 million gallons of wastewater per day (mgd) (City of San José 2019), with a capacity of up to 167 mgd (City of San José 2013). As a result, there is an existing available capacity of 57 mgd. According to the *San Jose/Santa Clara Water Pollution Control Plant Master Plan*, projections indicate that population growth will lead to an increase in wastewater flows to 172 mgd by 2040, which would require modifications to the wastewater facility and to the wastewater facility's NPDES permit (City of San José 2013, p. 15).

According to the Conceptual Grading and Utility Plan (Sheet C2.0), an existing 6-inch sanitary sewer line runs along S. Redwood Avenue, Hemlock Avenue, and S. Baywood Avenue.

Storm Drainage

The City's storm drain system is an underground collection system consists of approximately 1,250 miles of reinforced concrete pipes varying in size from 12 to 144 inches in diameter that function by gravity to carry untreated storm water to local creeks and rivers. Collected storm water runoff is discharged to the creeks and rivers via storm outfall structures. The creeks and rivers, in turn, flow

to the San Francisco Bay (City of San José 2011, p. 632). According to the City's Public GIS Viewer, the project site drains to the existing 12-inch storm drain system located at the corner of S. Baywood and Hemlock avenues.

Solid Waste

Republic Services provides solid waste collection services to all businesses in the City; therefore, Republic Services would serve the project site (Republic Services 2020). According to CalRecycle, the landfills that serve the City include Guadalupe Sanitary, Kirby Canyon, and Newby Island; each with a remaining capacity of 11,055,000 cubic yards; 16,191,600 cubic yards; and 21,200,000 cubic yards, respectively (CalRecycle 2020).

A mixed-use development may commingle the residential solid waste and commercial solid waste generated at the mixed-use development. The commingled waste may be collected by the City's authorized multi-family dwelling solid waste collector (GreenTeam of San Jose) if the total square footage of commercial building space in the mixed-use development is less than fifteen percent of the total building space (Municipal Code Section 9.10.1810 combined waste streams). The commingled waste shall be collected by Republic Services if the total square footage of commercial building space in the mixed-use development is fifteen percent or more of the total building space.

Other Utilities

Gas and electric utilities are currently provided by PG&E to the project site.

4.19.3 Regulatory Setting

Federal

Title 40 of the Code of Federal Regulations

Title 40 of the Code of Federal Regulations (CFR), Part 258 (Resource Conservation and Recovery Act RCRA, Subtitle D) contains regulations for municipal solid waste landfills and requires states to implement their own permitting programs incorporating the Federal landfill criteria. The Federal regulations address the location, operation, design, groundwater monitoring, and closure of landfills.

State

California Integrated Waste Management Regulations (AB 939, AB 341, and SB 1016)

To minimize the amount of solid waste that must be disposed of, the State Legislature passed the California Integrated Waste Management Act of 1989, effective January 1990. Under AB 939, all cities and counties were required to divert at least 50 percent of solid waste from landfill facilities by the year 2000 and every year thereafter. This act also requires every city and county to report to CalRecycle annually and requires jurisdictions to begin planning for new landfills when the jurisdiction's primary disposal site reaches its 15-year capacity.

In 2008, Senate Bill 1016 was passed, which builds on AB 939 compliance requirements by implementing a streamlined measure of jurisdictions' performance. SB 1016 accomplishes this by focusing on a disposal-based indicator rather than diversion rates. The per capita disposal rate utilizes two factors: a jurisdiction's residents/employees and its disposal amount as reported by

disposal facilities. Thus, rather than mandating a 50 percent or more diversion of solid waste, SB 1016 requires a 50 percent or less disposal rate of solid waste per capita. In 2012, the California legislature sought to further reduce solid waste disposal rates through AB 341, which set a goal of 75 percent recycling, composting, or source reduction of solid waste statewide by 2020. AB 341 also requires businesses that generate four or more cubic yards of waste per week and multi-family complexes of five or more units, to implement recycling programs.

Assembly Bill 1826

This law expands on mandatory recycling in AB 341 identified above. In October 2014, Governor Brown signed AB 1826 Chesbro (Chapter 727, Statutes of 2014), requiring businesses to recycle their organic waste on and after April 1, 2016, depending on the amount of waste they generate per week. This law also requires that on and after January 1, 2016, local jurisdictions across the state implement an organic waste recycling program to divert organic waste generated by businesses, including multifamily residential dwellings that consist of five or more units (please note, however, that multifamily dwellings are not required to have a food waste diversion program). Organic waste (also referred to as organics throughout this resource) means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. This law phases in the mandatory recycling of commercial organics over time, while also offering an exemption process for rural counties. In particular, the minimum threshold of organic waste generation by businesses decreases over time, which means an increasingly greater proportion of the commercial sector will be required to comply.

Senate Bill 1383

In September 2016, Governor Brown signed into law SB 1383 (Lara, Chapter 395, Statutes of 2016), establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of California's economy. The new law codifies the California Air Resources Board's Short-Lived Climate Pollutant Reduction Strategy, established pursuant to SB 605 (Lara, Chapter 523, Statutes of 2014), to achieve reductions in the statewide emissions of short-lived climate pollutants. Actions to reduce short-lived climate pollutants are essential to address the many impacts of climate change on human health, especially in California's most at-risk communities, and on the environment.

As it pertains to CalRecycle, SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The law grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that not less than 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Methane emissions resulting from the decomposition of organic waste in landfills are a significant source of greenhouse gas emissions contributing to global climate change. Organic materials--including waste that can be readily prevented, recycled, or composted--account for a significant portion of California's overall waste stream. Food waste alone accounts for approximately 17-18 percent of total landfill disposal. Increasing food waste prevention, encouraging edible food rescue, and expanding the composting and in-vessel digestion of organic waste throughout the state will help reduce methane emissions from organic waste disposed in California's landfills. In addition, compost has numerous benefits including water conservation, improved soil health, and carbon

sequestration. Anaerobic digestion produces biogas that can be used to create electricity or renewable transportation fuels. Food rescue has the added benefit of assisting Californians who are unable to secure adequate, healthy food by diverting edible food to food banks and pantries.

CalRecycle

The California Department of Resources Recycling and Recovery, also known as CalRecycle, is a department within the California Environmental Protection Agency. CalRecycle administers and provides oversight for all of California's state-managed waste handling and recycling programs. Known mostly for overseeing beverage container and electronic-waste recycling, CalRecycle is also responsible for organics management, used tires, used motor oil, carpet, paint, mattresses, rigid plastic containers, plastic film wrap, newsprint, construction and demolition debris, medical sharps waste, household hazardous waste, and food-scrap composting. In addition to these duties CalRecycle also provides training and support for agencies that regulate and inspect California's solid waste facilities including active landfills, materials recovery facilities, solid waste transfer stations, and compost facilities.

Regional Water Quality Control Board.

The State Water Resources Control Board and the nine Regional Water Quality Control Boards are responsible for assuring implementation and compliance with the provisions of the Clean Water Act and the Porter-Cologne Water Quality Control Act. The state board and regional boards are designated as lead agencies in implementing the Clean Water Act and Porter-Cologne Water Quality Control Act. The City is within the jurisdiction of the San Francisco Bay Regional Water Quality Control Board. Refer back to Section 4.10, Hydrology and Water Quality, Regulatory subsection for more information on the regional board.

Title 22 of California Code of Regulations

Title 22 regulates the use of reclaimed wastewater. In most cases only disinfected tertiary water may be used on food crops where the recycled water would come into contact with the edible portion of the crop. Disinfected secondary treatment may be used for food crops where the edible portion is produced above ground and will not come into contact with the secondary effluent. Lesser levels of treatment are required for other types of crops, such as orchards, vineyards, and fiber crops. Standards are also prescribed for the use of treated wastewater for irrigation of parks, playgrounds, and landscaping.

California Green Building Standards Code

In January 2010, the State adopted the California Green Building Standards Code that establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;

- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and

- Providing readily accessible areas for recycling by occupant.

Regional/Local

Santa Clara County Integrated Waste Management Plan

The Santa Clara County Integrated Waste Management Plan, prepared in compliance with Assembly Bill 939 and more recently Senate Bill 1016, is the primary tool for waste reduction and recycling programs that are countywide in scope. This plan sets the countywide goals for reducing waste sent to landfills by 50 percent by 2000 and each year thereafter.

City's Green Building Policy

Under the City's Green Building Policy, all private sector and municipal building projects constructing or adding more than 10,000 square feet of occupied space (as defined in the adopting building code) are required to be designed and constructed to achieve, at a minimum, the United States Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED TM) rating system Silver-level certification with a goal of reaching LEED Gold or Platinum levels.

Envision San José 2040 General Plan

Chapter 3, Environmental Leadership, in the General Plan sets forth sustainability goals for the City through 2040. The following policies are germane to the proposed project (City of San José 2011):

> **Policy MS-3.1** Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
>
> **Policy MS-3.2** Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
>
> **Policy MS-3.3** Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
>
> **Policy MS-17.2** Ensure that development within San José is planned and built in a manner consistent with sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the SBWR system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection or other similar sustainable practice. Non-residential

development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development within San Jose's urbanized areas.

Policy MS-19.1 Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a sustainable local water supply.

Policy MS-19.4 Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

Policy IN-3.3 Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.

Policy IN-3.5 Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.

Policy IN-3.7 Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.

Policy IN-3.9 Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

Policy IN-3.10 Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

Policy IP-15.1 New development is required to construct and dedicate to the City all public improvements directly attributable to the site. This includes neighborhood or community parks and recreation facilities, sewer extensions, sewer laterals, street improvements, sidewalks, street lighting, fire hydrants and the like. In the implementation of the level of service policies for transportation, sanitary sewers, and neighborhood and community parks, development is required to finance improvements to nearby intersections or downstream sewer mains in which capacity would be exceeded, and dedicate land, pay an in lieu fee or finance improvements for parks and recreation needs which would result from the development.

Policy EC-5.7 Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

Policy EC-5.11 Reduce the amount of impervious surfaces as a part of redevelopment and roadway improvements through the selection of materials, site planning, and street design where possible.

Action EC-5.16 Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

4.19.4 Impact Discussion

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

(No Impact)

Water:

The proposed project would be served by San José Water. The proposed project includes the demolition of three residential buildings, one detached garage, and one shed and the construction of a new mixed-use building. Table 12, Existing vs Proposed Water Uses, below provides a comparison of existing to proposed water use on the project site.

Table 12 Existing vs Proposed Water Uses

	Number of units/ Square Footage	Water Demand Factor[1]	Total[1]
Existing Uses	3 units	400 gpd/unit	1,200 gpd
Proposed Project	79 units	400 gpd/unit	31,600 gpd
	9,820 square feet	0.1 gpd/square foot	982 gpd
		Difference	31,382 gpd of water demand (or approx. 35 acre-feet per year)

SOURCE: (Carpira Design Group 2020), (San José Water Company 2016, p. 5)
NOTE: (1) gpd = gallons per day

According to a 2016 water supply assessment prepared by the water company, the demand factor for residential uses is 400 gallons per day per unit (gpd/unit) and for office uses is 0.1 gpd per square foot (gpd/square foot) (San José Water Company 2016). Using these demand factors, the proposed project is estimated to require approximately 32,582 gpd in comparison to the existing use of 1,200 gpd (an increase in approximately 31,382 gpd, or approximately 35 acre-feet per year, water demand for the project site).

According to the urban water management plan, San Jose Water anticipates adequate supplies in water for years 2020 to 2040 to meet system demand under average year conditions. Under a single-dry year, San Jose Water anticipates adequate supplies in water for years 2020 to 2035 and under multiple-dry years, San Jose Water would have adequate supplies only in the first dry year. San Jose Water also indicates that when weather conditions return to average historical conditions, groundwater and imported supplies are assumed to return to the historical

ten-year averages and surface water supply volume is assumed to hold constant at the ten-year average as the watershed supplying the surface water treatment plants will not change (San José Water Company 2016, p. 6-9).

In addition, the project site's General Plan designation of Urban Village was planned for by the City by way of its Urban Village Plan, adopted by the City in August 2017. The Urban Village Plan supports the identified growth capacity for the area, which includes the project site, in the General Plan. The General Plan EIR states that San Jose Water will meet future demand through increased groundwater pumping, increased treated water delivery, increased recycled water use, and conservation (City of San José 2011, p. 647). San Jose Water does not anticipate additional storage capacity will be required to meet projected demand from the General Plan (City of San José 2011, p. 647).

The Santa Clara Valley sub-basin has an operational storage capacity estimated to be 350,000 acre-feet (San José Water Company 2016, p. 6-1), which could adequately support the proposed project's water demand increase of 35 acre-feet per year compared to existing conditions. Therefore, expected water needs of the proposed project would be met with existing entitlements and resources and there would be no adverse environmental impacts related to water supply.

Wastewater:

The proposed project would be served by the San José/Santa Clara Regional Wastewater Facility (wastewater facility) via the City and West Valley Sanitation District collection systems. The proposed project is the demolition of three residential buildings, one detached garage, and one shed and the construction of a new mixed-use building. Table 13, Existing vs Proposed Wastewater Uses, below provides a comparison of existing to proposed wastewater use on the project site.

Table 13 Existing vs Proposed Wastewater Uses

	Number of units/ Square Footage	Generation Factor[1]	Total
Existing Uses	3 units	180 gpd/unit[2]	540 gpd
Proposed Project	79 units	160 gpd/unit[3]	12,640 gpd
	9,820 square feet	0.15 gpd/square foot	1,473 gpd
		Difference	__ gpd of wastewater demand (or _ acre-feet per year)

SOURCE: (Carpira Design Group 2020), (City of Los Angeles 2010, Table IV.L-10)
NOTE: (1) gpd=gallons per day
(2) The source of this generation factor includes more than one factor for single-family units (two bedrooms – 180 gpd/unit and three bedrooms – 230 gpd/unit). It is unknown how many bedrooms exist within the three existing single-family residences. Therefore, for the purpose of begin conservative in the assumptions within this analysis, it is assumed that each existing single-family residence includes only two bedrooms.
(3) The source of this generation factor includes more than one factor for multi-family units (one bedroom – 120 gpd/unit and two bedrooms – 160 gpd/unit). The proposed project includes 34 one-bedroom units, 41 two-bedroom units, and 4 three-bedroom units (totaling at 79 units). For the purpose of this table, the factor of 160 gpd/unit was used for all 79 units proposed.

Based on a standard wastewater generation rate for office uses of 0.15 gpd per square foot, single-family uses of 180 gpd per dwelling unit, and multi-family uses of 160 gpd per dwelling unit (City of Los Angeles 2010), the proposed project would generate approximately 14,113

gallons of wastewater each day resulting in an increase in wastewater demand on the project site of approximately 13,573 gallons of wastewater each day (or approximately 15 acre-feet per year).

As stated previously, the proposed project would receive wastewater services from the wastewater facility via the City and West Valley Sanitation District collection systems. The General Plan EIR determined that development allowed under the General Plan would not exceed the City's allocated capacity of the wastewater facility (City of San José 2011, p. 656). The proposed project is consistent with the General Plan designation Urban Village and mixed-use development of the site has been anticipated by the City by way of its adoption of the Urban Village Plan. The proposed project's increase of approximately 15 acre-feet of wastewater per year would not necessitate the construction or expansion of the City's wastewater facilities.

Storm Water Drainage:

The proposed project would connect into the new 12-inch storm drain system to be located in S. Baywood Avenue at the northeast corner of the site and drain south to connect into the City's existing storm drain system corner of Hemlock and S. Baywood avenues. The proposed project's storm water contribution to the City's system would be directed into local creeks and ultimately into the San Francisco Bay. The proposed project is a mixed-use building on a property that is currently developed with three residential buildings, one detached garage, and one shed. Impervious surfaces currently exist on the project site and although the proposed project would increase the number of impervious surfaces, it includes a bioretention area located onsite that would help filter and reduce the amount of runoff entering the City's storm drain system.

As discussed in Section 4.10, Hydrology and Water Quality, the proposed project must comply with Municipal Regional Stormwater NPDES Permit requirements to include appropriate source control, site design, and storm water treatment measures to address storm water runoff pollutant discharges and prevent increases in runoff flows. The proposed project complies with the City's Post-Construction Urban Runoff Management Policy 6-29, which requires that all new and redevelopment projects implement post-construction BMPs and Treatment Control Measures in order to reduce impacts associated with post-construction stormwater runoff. The project's Conceptual Stormwater Control Plan (Sheet C3.0) indicates that the onsite bioretention area square footage that is provided meets what is required to ensure that storm water flows do not exceed the pre-construction peak flows, thereby reducing the likelihood that the project's runoff would exceed the capacity of the City's existing storm drain system. Therefore, the proposed project would not require or result in the expansion of existing storm drain facilities.

Electric/Gas/Telecommunications:

PG&E provides electricity and natural gas to the City, including the project site. Telecommunication services, including telephone, mobile phone, cable television, and broadband internet services, in the county are provided by various companies. The proposed project would not result in the construction of new or the expansion of existing electric/gas/telecommunication facilities.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

(**Less Than Significant**)

The project would increase demands on utility services. Water service to the site would be supplied by SJWC, a private entity that obtains water from a variety of groundwater and surface water sources. Additionally, because the project is consistent with the City's General Plan, the growth proposed by the project and its associated water use was addressed in the General Plan EIR.

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

(**No Impact**)

As stated in checklist question a) above, the General Plan EIR determined that development allowed under the General Plan would not exceed the City's allocated capacity of the wastewater facility (City of San José 2011, p. 656). The proposed project is consistent with the General Plan designation Urban Village; therefore, development of the site has been anticipated in the City's General Plan. Therefore, the proposed project would not result in a determination by the wastewater treatment provider that it has inadequate capacity to serve the proposed project's demands in addition to its existing commitments.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

and

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

(**No Impact**)

State mandates such as AB 939, AB 341, AB 1826 and SB 1383 require all California jurisdictions to implement organics recycling programs, business/residential recycling programs, and meet mandatory diversion from landfill or face potential compliance schedules and/or fines.

Solid waste generated by the proposed project would be disposed of at the Newby Island landfills as the City uses Newby Island Landfill for residential, commercial, and City facility waste streams. According to CalRecycle, the Newby Island Landfill has a remaining capacity of 21,200,000 cubic yards and its anticipated closure date is 2041 (CalRecycle 2020).

According to the CalRecycle's Disposal Rate Calculator for the year 2018, the City produced 3.8 pounds of solid waste per resident per day and 9.6 pounds of solid waste per employee per day (CalRecycle 2020). The proposed project would result an increase in population of 252 residents and would involve 33 employees. Therefore, the proposed project's population increase could generate approximately 958 pounds of solid waste per day (3.8 pounds per

person per day x 252 residents) or 0.48 tons of solid waste per day. The proposed project's employees could generate approximately 317 pounds of solid waste per day (9.6 pounds per person per day x 33 employees) or 0.16 tons of solid waste per day. This results in the proposed project generating 0.64 tons of solid waste per day.

The proposed project's contribution of 0.64 tons of solid waste per day would not exceed the Newby Island Landfill's maximum permitted throughput of 4,000 tons per day. Additionally, the total amount of solid waste tonnage produced per day would not end up in the Newby Island Landfill; all waste in the City gets processed before it goes to the landfill. Therefore, the proposed project would not generate solid waste that would exceed landfill capacity. Further, the proposed project would be required to comply with federal, state, and local statutes and regulations related to solid waste.

According to the Santa Clara County Integrated Waste Management, the County continues to have equal to or greater than 15 years disposal capacity (as of 2011). The development, implementation, and adoption of diversion programs established by all jurisdictions, including the County, help extend landfill capacity and would continue to do so as these programs and outreach help the community understand and buy into the zero waste concept and alternatives to landfilling waste (Santa Clara County Integrate Waste Management 2011, p. 6). Therefore, the proposed project would not generate solid waste that exceeds the landfill capacity, impair the attainment of solid waste reduction goals, and conflict with state regulations related to solid waste.

4.20 WILDFIRE

4.20.1 Wildfire Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project, would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1,4
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of wildfire?	☐	☐	☐	☒	1,4
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	1,4
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	1,4

4.20.2 Environmental Setting

The project site is located within an urbanized area of the City and is surrounded by existing urban development. According to the General Plan EIR Figure 3.8-3, the project site is identified as not being within a very high fire hazard zone (City of San José 2011).

4.20.3 Regulatory Setting

Local

Envision San José 2040 General Plan

Chapter 3 of the City's General Plan sets forth the goal to protect lives and property from risks associated with fire-related emergencies at the urban/wildland interface. Although the project site is not located within a fire hazard area, the following policies are germane to the proposed project:

> **Policy EC-8.1** Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
>
> **Policy EC-8.2** Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

Policy EC-8.4 Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

4.20.4 Impact Discussion

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of wildfire?

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

(**No Impact**)

The project site is located within an urbanized area of the City and is surrounded by existing urban development. Furthermore, the project site is not within or near a very high fire hazard zone (City of San José 2011, Figure 3.8-3). Therefore, the proposed project would not expose people or structures to a significant risk involving wildfires nor exacerbate the risk of wildfire.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

4.21.1 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Does the project have the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐	1,4,6,13, 28,56
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☒	☐	☐	1,34,35, 36,37
c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐	1,4,9,10, 30,31,34, 35,36,37

4.21.2 Impact Discussion

a) Does the project have the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory?

(**Less Than Significant with Mitigation**)

As discussed in Section 4.4 Biological Resources, special-status species are not expected to occur in areas of the City already urbanized, such as the project site. However, the project site is within a burrowing owl conservation zone and the seven existing trees located on the project site proposed for removal could support nesting birds protected under the Migratory Bird Treaty Act. Implementation of BIO-1 would protect nesting birds and reduce the impact to a less-than-significant level.

As described in Section 4.5 Cultural Resources, the project site does not consist of historic structures onsite and is not known to contain any historic or prehistoric resources. However, it is possible that these resources could be accidentally uncovered during grading and construction activities. In the event this should occur, standard permit conditions would ensure that the potential impacts would not be significant.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

(**Less Than Significant with Mitigation)**

The proposed project has the potential to result in cumulatively considerable impacts in the areas of air quality (construction-related impacts). However, with the implementation of identified mitigation measures, impacts of the proposed project would not be cumulatively considerable.

c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

(**Less Than Significant with Mitigation**)

The proposed project has the potential to result in adverse environmental effects that could cause substantial adverse effects on human beings from the following: construction-related fugitive dust emissions, release of hazardous materials into the environment during construction, and temporary construction noise at nearby sensitive receptors that exceed noise thresholds. Implementation of Mitigation Measures AQ-1, HAZ-1, and N-1 would reduce potential impacts to a less-than-significant level.

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SECTION 5.0 REFERENCES

BIBLIOGRAPHY

1. Carpira Design Group Company. June 2020. Architectural and Civil Plan Sets.

2. Flores, Michelle, Project Manager, City of San José. Letter to the Applicant, subject: 375 and 383 Baywood Avenue File No. PDC19-023 and PD19-027, dated 6 September 2019.

3. City of San José. November 2011. *Envision San José 2040 General Plan*. San José, CA. https://www.sanjoseca.gov/DocumentCenter/View/474

4. City of San José. June 2011. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan*. San José, CA.

5. City of San José. Code of Ordinances. https://library.municode.com/ca/san_jose/codes/code_of_ordinances

6. Archives and Architecture. April 2018. "Proposed Baywood Hotel, San Jose (H18-014 and C18-001). San José, CA.

7. City of San José. "Heritage Tree List." Accessed on September 20, 2019. https://www.sanjoseca.gov/index.aspx?NID=3435

8. City of San José. "San Jose Designated Historic City Landmarks." Accessed on October 16, 2019. http://www.sanjoseca.gov/DocumentCenter/View/35476

9. Google, Inc. Accessed in 2020. Google Earth Pro

10. City of San José. "Public GIS Viewer." Accessed on July 31, 2020. http://csj.maps.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f

11. California Department of Conservation. September 2018. "Santa Clara County Important Farmland 2016." https://www.conservation.ca.gov/dlrp/fmmp/Pages/SantaClara.aspx

12. City of San José. August 2016. "Riparian Corridor Protection and Bird-Safe Design County Policy." Accessed on September 25, 2019. https://www.sanjoseca.gov/DocumentCenter/View/60393

13. County of Santa Clara. August 2012. *Final Santa Clara Valley Habitat Plan*. Santa Clara County, CA. https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan

14. California Department of Toxic Substances Control. 2019. *EnviroStor Database*; Accessed on October 16, 2019. https://www.envirostor.dtsc.ca.gov/

15. California Environmental Protection Agency. "Sites Identified with Waste Constituents above Hazardous Waste Levels Outside the Waste Management Unit." Accessed on July 31, 2020. https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/SiteCleanup-CorteseList-CurrentList.pdf

16. City of San José. "Treatment Process." Accessed on September 30, 2019. http://www.sanjoseca.gov/index.aspx?NID=1672

17. City of San José. "San José-Santa Clara Regional Wastewater Facility." Accessed on September 30, 2019. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility

18. Republic Services. "Welcome to Republic Services in San José." Accessed on August 1, 2020. http://local.republicservices.com/site/santa-clara-ca/san-jose

19. CalRecycle. "Newby Island Sanitary Landfill." Accessed on August 1, 2020. https://www2.calrecycle.ca.gov/swfacilities/Directory/43-AN-0003/

20. CalRecycle. "Kirby Canyon Recycle and Disposal Facility." Accessed on August 1, 2020. https://www2.calrecycle.ca.gov/swfacilities/Directory/43-AN-0008/

21. CalRecycle. "Guadalupe Sanitary Landfill." Accessed on August 1, 2020. https://www2.calrecycle.ca.gov/swfacilities/Directory/43-AN-0015/

22. Santa Clara Valley Water. "Groundwater Management." Accessed on July 31, 2020. https://www.valleywater.org/your-water/where-your-water-comes-from/groundwater/groundwater-management

23. San José Water Company. December 2016. *Museum Place Mixed-Use Project Water Supply Assessment*. San Jose, CA. https://www.sanjoseca.gov/home/showdocument?id=20379

24. San José Water Company. June 2016. *San Jose Water Company 2015 Urban Water Management Plan*. San José, CA. https://wuedata.water.ca.gov/public/uwmp_attachments/5545697867/2015%20UWMP%20with%20Appendices.pdf

25. City of Los Angeles. December 2010. *Ill Villaggio Toscano Project Environmental Impact Report*. Accessed on October 2, 2019. https://planning.lacity.org/eir/VillaggioToscano/DEIR/files/IV.L_2_%20Wastewater.pdf

26. Santa Clara County Integrated Waste Management. 2011. "SCC 3rd Five-Year Review Report Revised." https://www.sccgov.org/sites/rwr/Documents/CoIWMP/CalRecycle709-rev7.pdf

27. CalRecycle. "San Jose 2018 - Jurisdiction per Capita Disposal Trends." Accessed on August 5, 2020. https://www2.calrecycle.ca.gov/LGCentral/AnnualReporting/ReviewReports

28. City of San José. "City José of San Historic Resources Inventory." Accessed on October 16, 2019. https://www.sanjoseca.gov/DocumentCenter/View/35475

29. City of San José. August 2017. *Santana Row/Valley Fair Urban Village Plan*. City of José, CA. http://www.sanjoseca.gov/DocumentCenter/View/82815

30. City of San José. December 2018. *Initial Study Baywood Hotel Project SP18-048*. San José, CA.

31. AEI Consultants. June 2018. *Phase I Environmental Site Assessment*. Walnut Creek, CA.

32. Flores, Michelle, Project Manager, City of San José. Letter to the Applicant, subject: File No. SP20-008: Special Use Permit to allow 79 residential condominium units and 11,146 square feet of commercial space on an approximately 0.44-gross acre site, dated 23 March 2020.

33. Cooperative Strategies. April 2018. Campbell Union High School District - Residential Development School Fee Justification Study. https://4.files.edl.io/54ce/06/29/18/002004-9d125a39-501a-44ba-8c86-a5021892d8e0.pdf

34. Bay Area Air Quality Management District. April 19, 2017a. *2017 Clean Air Plan: Spare the Air, Cool the Climate*. San Francisco, CA. http://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en

35. Bay Area Air Quality Management District. May 2017b. *California Environmental Quality Act Air Quality Guidelines*. San Francisco, CA. http://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en

36. EMC Planning Group. July 30, 2020a. *Baywood Mixed Use Project – Criteria Air Pollutant and GHG Emissions Modeling Assessment*. Monterey, CA.

37. Illingworth and Rodkin. August 18, 2020. *Baywood Condominiums Community Risk Assessment, San José, California*. Cotati, CA.

38. EMC Planning Group. July 30, 2020b. *EMFAC Results*. Monterey, CA.

39. California Energy Commission. *Electricity Consumption by County*; Accessed July 28, 2020a. http://www.ecdms.energy.ca.gov/elecbycounty.aspx

40. California Energy Commission. *Gas Consumption by County*; Accessed July 28, 2020b. http://www.ecdms.energy.ca.gov/gasbycounty.aspx

41. California Air Resources Board. May 2014. *First Update to the Climate Change Scoping Plan Building on the Framework Pursuant to AB 32 The California Global Warming Solutions Act of 2006.* https://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf

42. California Department of Finance. January 2020a. *Table P-1: Total Estimated and Projected Population for California and Counties: July 1, 2010 to July 1, 2060 in 1-year Increments*; Accessed July 28, 2020. http://www.dof.ca.gov/Forecasting/Demographics/projections/

43. California Employment Development Department. July 2020. *2018-2028 Occupational Employment Projections California*; Accessed July 28, 2020. https://www.labormarketinfo.edd.ca.gov/data/employment-projections.html

44. California Department of Finance. May 2020b. *Report E-5: Population and Housing Estimates for Cities, Counties, and the State, January 1, 2011-2020, with 2010 Benchmark*; Accessed July 28, 2020. http://dof.ca.gov/Forecasting/Demographics/Estimates/e-5/

45. Santa Clara Valley Transportation Authority. April 23, 2017. *2017 CMP Monitoring and Conformance Report*. http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/CMP_2017_Monitoring_Report.pdf

46. City of San José. June 2011. *Greenhouse Gas Reduction Strategy for the City of San José.* https://www.sanjoseca.gov/home/showdocument?id=28213

47. City of San José. October 7, 2008. *City of San José Council Policy: Private Sector Green Building Policy (6-32)*. https://www.sanjoseca.gov/home/showdocument?id=12809

48. California Energy Commission. March 2018. *2019 Building Energy Efficiency Standards: Frequently Asked Questions.* https://ww2.energy.ca.gov/title24/2019standards/documents/Title_24_2019_Building_Standards_FAQ_ada.pdf

49. United States Environmental Protection Agency. "Overview of Greenhouse Gases." Last modified May 28, 2020. https://www.epa.gov/ghgemissions/overview-greenhouse-gases

50. State Water Resources Control Board. "GeoTracker." Accessed on July 31, 2020. https://geotracker.waterboards.ca.gov/map/?myaddress=California&from=header&cqid=1173825919

51. Tran, Christina, Business Office Secretary, Campbell Union School District. Email message to consultant, 4 August 2020.

52. Hexagon Transportation Consultant. July 2020. *Baywood Condominium Mixed-Use Development – Transportation Analysis*. Gilroy, CA.

53. WJV Acoustics, Inc. August 2020. *Baywood Condominium Development San Jose, California Environmental Noise Assessment*. Visalia, CA.

54. Caltrans. "California State Scenic Highway System Map." Accessed on August 11, 2020. https://www.arcgis.com/apps/webappviewer/index.html?id=2e921695c43643b1aaf7000dfcc19983

55. City of San José. June 2016. *Scenic Corridors Diagram*. https://www.sanjoseca.gov/home/showdocument?id=22565

56. Archives and Architecture. July 2020. "Proposed Baywood-Redwood Condominium, San Jose (SP20-008) 375 and 383 Baywood Ave. and 382 South Redwood Ave." San José, CA.

57. Cox, Rory, Director of Fiscal Services, Campbell Union High School District. Email message to consultant, 27 January 2020.

58. Santa Clara County. November 2016. Comprehensive Land Use Plan Santa Clara County, Norma Y. Mineta San Jose International Airport. San Jose, CA. https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf

59. Le, Thai-Chau. Email message to applicant, 17 August 2020.

60. Santa Clara Valley Habitat Agency. "Habitat Agency Geobrowser." Accessed on August 19, 2020. http://www.hcpmaps.com/habitat/

61. Bay Area Tree Specialists. June 18, 2020. *375-383 S. Baywood, 383 S. Redwood, San Jose, CA 95128*. Arborist report prepared by certified arborist Richard Smith. San Jose, CA.

62. Santa Clara Valley Water District. November 2016. *2016 Groundwater Management Plan*. San Jose, CA. https://s3.us-west-2.amazonaws.com/assets.valleywater.org/2016%20Groundwater%20Management%20Plan.pdf

63. City of San José. November 2013. *San Jose/Santa Clara Water Pollution Control Plant Master Plan*. San José, CA. https://www.sanjoseca.gov/home/showdocument?id=206

64. Association of Environmental Professionals, 2016. *Final White Paper - Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf.

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